

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



74-1119

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff-Appellee

v.

UNITED STATES OF AMERICA,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE EASTERN  
DISTRICT OF NEW YORK

APPENDIX

Volume II (pp. 201-380)



SCOTT P. CRAMPTON,  
Assistant Attorney General,

MEYER ROTHWACKS,  
GEORGE G. WOLF,  
Attorneys,  
Tax Division,  
Department of Justice,  
Washington, D.C. 20530.

Of Counsel:

ROBERT A. MORSE,  
United States Attorney.

**PAGINATION AS IN ORIGINAL COPY**



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendants.

No. 7 0 C 7 0

[Filed April 9, 1973]

DEPOSITION OF CHARLES HILLESTAD

Phoenix, Arizona  
March 5, 1973  
10:45 o'clock a.m.

PREPARED FOR:

U.S. ATTORNEY'S OFFICE

C O P Y

1 THE DEPOSITION OF CHARLES HILLESTAD,  
2 taken at 10:45 o'clock a.m., on March 5, 1973, in  
3 the UNITED STATES ATTORNEY'S OFFICE, 230 North First  
4 Avenue, Phoenix, Arizona, before MARVIN J. ATWOOD, a  
5 Notary Public in and for the County of Maricopa,  
6 State of Arizona.

7 The plaintiff was represented by its attorney,  
8 MR. STUART STILLMAN, 900 Old Country Road, Garden  
9 City, New York.

10 The defendant was represented by its attorney,  
11 the UNITED STATES ATTORNEY'S OFFICE, by Mr. Robert  
12 Hipple, Trial Attorney, Tax Division, Department of  
13 Justice, Washington, D.C.

14  
15 S T I P U L A T I O N  
16

17 IT IS STIPULATED by and between counsel for the  
18 respective parties hereto that the deposition of  
19 CHARLES HILLESTAD may be taken at this time and  
20 place before MARVIN J. ATWOOD, a Notary Public in  
21 and for the County of Maricopa, State of Arizona,  
22 pursuant to the Rules of Federal Procedure.

23 IT IS FURTHER STIPULATED that all objections,  
24 except as to the form of the question propounded,  
25 are reserved until the time of trial, except that  
26 counsel do not waive the right to make any objection

1 during the taking of the deposition.

2 IT IS FURTHER STIPULATED that the witness has  
3 waived the reading and signing of the deposition and  
4 notice of filing and other formalities required by  
5 law for the taking and returning of the said  
6 deposition are waived.

7  
8 Phoenix, Arizona  
9 March 5, 1973  
10 10:45 o'clock a.m.

11 CHARLES HILLESTAD,  
12 called as a witness herein, having been first duly  
13 sworn, was examined and testified as follows:

14  
15 EXAMINATION

16 BY MR. HIPPLE:

17 Q Would you state your name and address for  
18 the record?

19 A Charles Hillestad, H-i-l-l-e-s-t-a-d, 8501  
20 East Sage, Scottsdale.

21 Q Your current occupation?

22 A City Manager, Avis Rent A Car.

23 Q In Phoenix?

24 A In Phoenix.

25 Q How long have you been employed by Avis?

26 A Fourteen years, be fifteen years April 20th.

1 Starting --

2 Q '58?

3 A '59.

4 Q '59. Have you been in Phoenix that whole  
5 time?

6 A No, sir.

7 Q Where were you during the period from '62 to  
8 '66, if you recall?

9 A As far as I know I was in Phoenix.

10 Q How about before you came to Phoenix?

11 A I was in Las Vegas and Denver.

12 Q Okay. And what position did you have in  
13 Las Vegas and Denver?

14 A Las Vegas, it's hard to say. We cancelled  
15 our licensee and he wanted to be cancelled, so I was  
16 an Assistant Manager, but there was only two  
17 employees, so I guess I was Assistant Manager.

18 Q Okay.

19 A In Denver --

20 MR. STILLMAN: Off the record for a minute.

21 (Whereupon, an off the record discussion  
22 then ensued.)

23 BY MR. HIPPLE:

24 Q Okay. Denver.

25 A In Denver, I started with Avis in Denver  
26 while I was going to college. I was a Rental Agent

1 for those years.

2 Q And what was your position in Phoenix  
3 through 1966?

4 A I came here on March 1, 1963, left September  
5 15th, '65.

6 Q M'hum.

7 A So my position -- the positions were March 1  
8 through April 1 I was Downtown Station Manager,  
9 April 1, '63 to April 1, '64 I was Airport Manager.  
10 April 1, '64 through September 15th, '65 I was  
11 Agency Manager in Scottsdale.

12 Q And at any one of these positions with Avis  
13 in the three cities did you have any connection with  
14 car shuttling? Do you have any knowledge about car  
15 shuttling?

16 A I know we did it. I had no responsibility  
17 as far as assigning that or getting people. I knew  
18 it was done.

19 Q Did you have any knowledge about how it was  
20 done? I mean the circumstances, if any, the  
21 documents involved, that sort of thing.

22 A I know we used vehicle transfers to move  
23 them.

24 Q Was this true in all three cities?

25 A I'm sorry, I meant -- you said all three  
26 cities?

1 Q Yeah.

2 A Denver I have practically no knowledge. I  
3 don't know what kind of a document was in Denver.  
4 In Vegas, yes, we used the vehicle transfer  
5 document.

6 Q Were you familiar with the general proce-  
7 dures in each city?

8 A Seeing as how there was only two of us in  
9 Vegas, yes. In Denver, basically, yes. We did not  
10 move too many cars in Denver at that period of time,  
11 but I was familiar with it if it was moved from one  
12 point to another point.

13 Q Was the procedure followed generally the  
14 same in each of the three cities?

15 A I say generally, yes. In Vegas there was  
16 zero need, in Denver there was hardly any need, and  
17 here generally it was the same, yes.

18 Q Well, let me ask you about Phoenix and if  
19 there was anything different --

20 A When you say the three cities, see, I have  
21 to go back because each one was strictly different  
22 than the other, and I have to -- so if you make one  
23 question about all three cities I have --

24 Q Well, let me ask you about Phoenix, and if  
25 the other ones were different in any way you let me  
26 know.

1 A. Okay.

2 Q. Would you describe what the shuttlers did in  
3 Phoenix to the best of your knowledge? We are  
4 talking about '62 to '66.

5 A. My knowledge of it was that if we needed  
6 cars at any of the stations and if I had any part  
7 that I was involved in, I would call Car Control and  
8 say, "Hey, move me some cars to Station A or B."

9 Q. Can you estimate how often that happened,  
10 say on a weekly basis or monthly basis? Whatever  
11 you want to use.

12 A. It's a long time ago. I would say on a  
13 daily basis some stations needed cars every day, so  
14 some cars were moved every day.

15 Q. So there was some shuttling done every day?

16 A. Right, yes.

17 Q. Did this shuttling only involve the local  
18 area from one station to another, from one downtown  
19 out to the airport or were there long-range shuttles  
20 to Tucson or Las Vegas or Denver, something like  
21 that?

22 A. Yes, it included out of town.

23 Q. Was that a frequent thing or were they rare  
24 occasions that this happened?

25 A. I'd say rare.

26 Q. Do you know how the individuals found out



1 about shuttling, the ones who did it?

2 A Well, strictly word of mouth. Air line  
3 employees were the main source.

4 Q Had you ever contacted shuttlers yourself  
5 directly?

6 A To the best of my knowledge, no. I could  
7 have, but I don't think I did.

8 Q If you needed a car moved who did you  
9 contact?

10 A The man in charge of what we call Car  
11 Control.

12 Q You always contacted him?

13 A Yes.

14 Q He was the man who did it?

15 A Yes. My responsibility was the station  
16 itself only.

17 Q Okay. Do you know if he maintained a list  
18 of shuttlers by name that he could call?

19 A I'm sure there was names written on a piece  
20 of paper or on an index on the telephone thing. I  
21 don't know if there was an official list kept, but  
22 I'm sure if the man came in and said, "Hey, my name  
23 is so-and-so," I'm sure there was -- there was  
24 access to the man's phone number.

25 Q Well, do you know how he contacted shuttlers  
26 when he needed cars moved-and he didn't have them



1 right there?

2 A Not really. I know that they came in, they  
3 just came in on the lot, but I do not have knowledge  
4 how he contacted them when he needed them.

5 Q You do know that people came down to the lot  
6 every day and waited around to shuttle cars?

7 A Yes.

8 Q Do you know whether any of these individuals  
9 who shuttled cars had to fill out any kind of  
10 personal information forms, name and address, phone  
11 number, this sort of thing?

12 A No, not that I know of. I wouldn't think  
13 so, I never heard of it.

14 Q You mentioned before the Vehicle Transfer  
15 Contract; would you look at Defendant's Exhibit A  
16 and see if you can identify that?

17 A It's not a current one.

18 Q We are talking about '62 to '66.

19 A Oh, okay, right. You're asking me to say if  
20 I remember for sure if that was used at that time?

21 Q Essentially something like that.

22 A It appears like it probably could have been,  
23 yes.

24 Q At least it would have contained the same  
25 information?

26 A Yes, I would think so.

1 Q Well, was one of those used every time a car  
2 was moved?

3 A Yeah, to the best of my knowledge it was.

4 Q Do you know of any occasions when a car was  
5 moved without one of those?

6 A By a shuttler we are referring to?

7 Q Yeah.

8 A No.

9 Q Were there occasions when cars were moved by  
10 anyone without a document besides the Vehicle  
11 Transfer document and besides a rental agreement  
12 with a customer?

13 A Employees use a non-revenue ticket.

14 Q And how does that differ from the Vehicle  
15 Transfer Contract?

16 A It doesn't have the paragraph talking about  
17 returning it in such condition, doesn't have the  
18 conditions on it is what I guess we should say.

19 Q Do you know the purpose --

20 A And it doesn't have the expense items here  
21 on the --

22 Q On the left-hand side? Do you know the  
23 purpose of that Vehicle Transfer Contract or why the  
24 document is used?

25 A Well, my understanding is that it's a con-  
26 tract between us and the man moving it for a certain

1 to move it from Point A to Point B.

2 Q Do you know if the purpose or effect of the  
3 contract was explained to the shuttlers when they  
4 drove the car?

5 A I don't have any knowledge whether it was.

6 Q Were the shuttlers asked for their Social  
7 Security number when they first started driving?

8 A To my knowledge?

9 Q Yes.

10 A No, as far as I know they were not.

11 Q Were they asked for their driver's license?

12 A I would assume that because they had to have  
13 a driver's license to drive.

14 Q Was there a --

15 A I assume.

16 Q Was there a regular procedure for looking at  
17 the driver's license or are you just assuming this,  
18 you don't know this personally?

19 A No, I don't. When you say -- I assume they  
20 look at the driver's licenses. I would also assume  
21 that there was many times that that was slipped  
22 through, you know, that they didn't. I don't know  
23 of any specific procedures.

24 Q In the case of the regular full-time  
25 employees of Avis who were moving a car under a non-  
26 revenue ticket are their driver's licenses checked

1 when they first start working or periodically?

2 A Oh, yeah, when they're first hired, yes.

3 Q Is there a periodic check?

4 A During that period of time now you're  
5 saying? Well, I have no knowledge during '62 to '66  
6 that they were in fact checked. I know they are  
7 now. I do not know about that, I never hired  
8 anybody.

9 Q How about the driving record of the  
10 shuttlers? During this period was this checked or  
11 asked about?

12 A I doubt it, but I do not know.

13 Q Also home address and phone number and  
14 things like what?

15 A Oh, yes, yes.

16 Q Of the shuttlers?

17 A Oh --

18 Q I'm talking about shuttlers.

19 A You said employees the last one.

20 Q No, I'm talking about shuttlers, the driving  
21 record also of shuttlers.

22 A Before they drove?

23 Q M'hum.

24 A I don't know.

25 Q The home address and phone number?

26 A I'm not sure if the phone number and home

1 address was given, whether it was even asked for. I  
2 don't know that it was asked. In most cases --

3 Q Do you know if there was any kind of inter-  
4 view before the shuttlers were allowed to drive a  
5 car?

6 A No, I don't think so. I don't know, but I  
7 don't think so.

8 Q To the best of your knowledge now, again we  
9 are talking about '62 to '66, would you describe the  
10 general steps that took place from the time a  
11 shuttler was contacted to move a car to the time he  
12 delivered it to the destination, the check-in pro-  
13 cedures and that sort of thing, who he saw, where he  
14 went?

15 A It's always been at 24th Street and Buckeye  
16 where he would go to pick up the car, it was at that  
17 point. For example, if he was to take a car to  
18 Mountain Shadows the Vehicle Transfer was given him  
19 to fill out by one or the other parties, and an Avis  
20 person who would tell him to go there or the man  
21 himself.

22 Q And when he arrived at the destination was  
23 there any procedure there, somebody to see or --

24 A Well, yeah. The girl on the desk or whoever  
25 would be in charge of the desk at that point.  
26 Usually it's a girl, and the mileage would be

1 brought in and the keys would be brought in.

2 Q Was this same procedure followed in all  
3 three of the cities we were talking about before?  
4 Is there anything different about the procedure in  
5 the other two cities?

6 A Well, like I say in Vegas it was almost non-  
7 existent, the movement. All we did was hit them in  
8 the motels, park them where we had a bunch of cars,  
9 so there really was no shuttling in Vegas at all.  
10 In Denver, as I remember, if there were any shutt-  
11 lers it would be the same thing. They got the car  
12 and made out the document and brought in the mileage  
13 when they got to the location.

14 Q How were the shuttlers paid at the end of a  
15 job, cash or check?

16 A I think they were paid both by -- they could  
17 have used both methods, just plain cash and a check.  
18 If a man drove just one time and came down say on  
19 his day off, he just made one or two trips, I'm sure  
20 that at that point if there was cash at the station,  
21 that he was just paid off in cash then. If he drove  
22 for the -- maybe four or five, six times a week they  
23 might have made a check for him, but I don't know.

24 Q M'hum.

25 A I do not know.

26 Q Do you know how the amount of compensation



1 was fixed?

2 A Per trip, where he was, the point -- let me  
3 start over. Where he was taking the car.

4 Q Yes. A flat rate from here to there?

5 A A flat rate from Point A to Point B.

6 Q How was that flat rate fixed? Was there a  
7 rate book that Avis used or some formula that was  
8 used to determine the amount?

9 A I don't know how it got established.  
10 Apparently it was a known thing. I mean everybody  
11 knows one trip from Point A to Point B was a dollar,  
12 and where it got established I don't have the  
13 foggiest idea.

14 Q Were there ever occasions when individuals  
15 were paid by the month or something like that that  
16 made longer trips?

17 A Not that I know of.

18 Q Do you know of any occasions when someone  
19 would drive a car from Denver to Phoenix and just be  
20 reimbursed for his expenses?

21 A I would assume, yes, and I think air line  
22 employees have brought -- picked up cars say that  
23 were up there and wanted to ride down, and we just  
24 bought their gas, you know, the car expenses. I  
25 would assume that that happened, yes.

26 Q Were the shuttlers given a specific route to

1 Follow from Point A to Point B?

2 A. Route? No.

3 Q. Well, were they given a specific time in  
4 which to arrive at the destination?

5 A. Only within reason, I would guess. If they  
6 were going longer distances I would assume, you  
7 know, a day or within any time within that. There  
8 would be no set time, no.

9 Q. Were they allowed to use the car for any  
10 personal reasons along the way, stop off and see  
11 their girl friend and take somebody along with them?

12 A. Well, you put in the girl friend bit. If  
13 the man was going to Vegas to get a car and he  
14 wanted to see some property on the way or something,  
15 I'm sure, yes, he was. I don't think anybody was  
16 given the car to see their girl friend, but it  
17 wasn't excluded either, so --

18 Q. You don't recall any specific -- anything  
19 specific being said about using the car for personal  
20 reasons?

21 A. No, but then I wasn't, you know, involved in  
22 that.

23 Q. Who checked the mileage on the car at either  
24 end? Was it the shuttler himself or someone from  
25 Avis?

26 A. The person writing out the Vehicle Transfer



[17]

1 would be the one.

2 Q You indicated that sometimes the shuttler  
3 would fill that out?

4 A Right, and of course when he got to the  
5 location he would -- if he's like out in the lot  
6 he's writing it down, so obviously the man is  
7 checking the mileage there.

8 Q Would the shuttler who filled out the  
9 Vehicle Transfer Contract only be one who had driven  
10 before, would you give that --

11 A Would you repeat that, please? I missed you  
12 there.

13 Q Would the shuttler who filled out the con-  
14 tract himself only be one who had driven before or  
15 would you give that to someone the first time he had  
16 driven or --

17 A Oh, I see what you mean. I don't know, but  
18 I would assume -- I don't have any knowledge. I  
19 would assume that yes, he would probably have done  
20 it before if he had filled it out.

21 Q Were some of these people regulars, they did  
22 it on a regular basis over a period of time?

23 A Yes.

24 Q Could you recall anyone who did it more than  
25 once, how often they did it?

26 A I know one air line employee who was -- who

[10]

1 I knew because I also knew him in Vegas, and I know  
2 he did it more than one time. He's now passed away,  
3 but he was a -- he worked for one of the air lines,  
4 and he periodically did it for money, I guess.

5 Q Do you know of anyone who did it who was not  
6 employed anywhere at the time and was doing nothing  
7 but shuttling, any of these people that were hanging  
8 around the garage?

9 A Well, I have no personal knowledge of that.

10 Q Do you recall anyone that you saw regularly  
11 showing up at one station?

12 A Like on a daily basis you mean?

13 Q Yeah.

14 A No, because I never worked there.

15 Q Okay. Do you know of any other instructions  
16 or advice or information which was given to the  
17 shuttler when he picked up the car other than what  
18 we have already covered?

19 A Instructions?

20 Q Information, advice, anything, anything they  
21 were told that we haven't already covered.

22 A No.

23 Q Was anything said to them about what would  
24 happen if they got a speeding ticket on the way?

25 A It was theirs.

26 Q Was that told to them?

1 A. I don't know if it was told. Do you mean if  
2 it was given as information?

3 Q. Yeah.

4 A. I have no knowledge if it was.

5 Q. How about what would happen if the car broke  
6 down or if they had an accident?

7 A. Oh, well --

8 Q. Were they told to call somebody?

9 A. They were told to call back in at our office  
10 and we'd, you know, send somebody else to pick them  
11 up.

12 Q. Were these individuals covered by auto  
13 insurance, I mean maintained by Avis while they were  
14 driving?

15 A. What type of insurance do you mean?

16 Q. Well, any kind, whether personal injury to  
17 themselves or property damage to the car.

18 A. I don't have any knowledge whether they  
19 were. I assume Avis owned the cars and they would  
20 be responsible for the car.

21 Q. Yeah.

22 A. I don't -- there was no insurance that I  
23 know of on the person.

24 Q. Do you know whether the coverage or lack of  
25 coverage was explained to the shuttlers when they  
26 drove?

1 A No, I don't.

2 Q Was Social Security Unemployment taxes or  
3 withholding taxes deducted from the amounts they  
4 were paid?

5 A I don't know. I don't -- I never did it, I  
6 don't have any knowledge whether they were.

7 Q Do you know of anything that was said to  
8 them about Federal payroll deductions as they were  
9 paid?

10 A No.

11 Q Do you know any who asked about it?

12 A No.

13 Q Can you recall any of the people who were  
14 shuttling cars during that period of time?

15 A I remember one guy named Oaky, and beyond  
16 that I don't have anything, I know --

17 MR. STILLMAN: What city are we in now?

18 BY MR. HIPPLE:

19 Q Phoenix, I think.

20 A All I remember, he was the only one I knew  
21 by name because -- well, he was --

22 Q He showed up more than once?

23 A Well, he was an Oaky, you know. I don't  
24 mean that disparagingly, but I remember -- yeah, I  
25 assume he did, right, because I do remember that  
26 name and that one only.

1 Q Did you or anyone else from Avis ever go  
2 down to the Arizona Employment Office to get  
3 shuttlers?

4 A Not that I know of. I did not.

5 Q Do you know of anybody else who did?

6 A No.

7 Q That was getting shuttlers?

8 A I didn't know if they did or did not.

9 Q Do you know of anyone who was a full-time  
10 regular employee of Avis such as a service agent or  
11 clerical personnel who shuttled cars such as this  
12 off the clock, after the regular hours?

13 A Yeah, I think there was.

14 Q Do you remember anyone in particular?

15 A No, because I was not in charge of them.

16 Q Do you know how they were compensated, if  
17 they were, for this?

18 A No, I don't.

19 Q Do you know if Avis had a union contract  
20 with its regular full-time employees during this  
21 period of time?

22 A No.

23 Q To your knowledge did Avis ever place any  
24 advertisements for shuttlers in local newspapers,  
25 anything like that?

26 A I'm almost positive they never did. If they

1 did I did not know about it. I do not think so.

2 Q Do you recall anywhere the shuttlers were  
3 given anything when they picked up a car besides the  
4 keys and the contract, any other kind of document or  
5 anything else?

6 A Well, if they were going to Point B and  
7 somebody wanted an envelope taken out there --  
8 nothing related to the car, no.

9 Q Nothing on a regular basis?

10 A No.

11 Q Were these individuals covered by health  
12 insurance or any other fringe benefits of Avis?

13 A As far as I know they were not, I don't  
14 believe so.

15 Q Do you know of any other shuttler who ever  
16 filed a claim for any fringe benefits?

17 A No.

18 Q Was anyone who shuttled for Avis frequently  
19 given preference as a regular shuttler or over  
20 someone who had done it once or never?

21 A To my knowledge, no.

22 Q Strictly a first-come first-serve thing?

23 A Right, as far as I know, any time I ever  
24 knew about it, yeah.

25 Q Did the shuttlers ever have to share a part  
26 of their fee or compensation with anybody else?

1 A Not that I know of.

2 Q Was there any foreman or head shuttler,  
3 something like that who controlled them or brought  
4 them in?

5 A No, not that I know of.

6 Q Did the shuttlers either the first they  
7 drove or anyone who did it regularly have any kind  
8 of identification or card or badge or anything like  
9 that to identify them as shuttlers?

10 A No.

11 Q Did they wear a jacket or anything else to  
12 identify them?

13 A No.

14 Q The only thing they had to identify them if  
15 they were stopped and asked about the car was the  
16 Vehicle Transfer Contract?

17 A As far as I know.

18 Q Are you familiar with any records that Avis  
19 maintained to show the dates and the amounts paid to  
20 the shuttlers other than the contract?

21 A During this period of time?

22 Q Yes, m'hum.

23 A From what knowledge I have now I assume they  
24 had to keep them. Whether they did it at that  
25 period of time I don't know.

26 Q When the shuttler was paid was he required



1 to sign a receipt, a petty cash slip or something  
2 like that to show he had been paid?

3 A No, I don't think so, but I don't know. I  
4 think the contract -- the Vehicle Transfer Contract  
5 was used because they sign that.

6 Q Was there any kind of an account number or  
7 other identifying number to identify the shuttling  
8 payments as opposed to any other payments?

9 A As I understand our procedure now there  
10 should have been, yes. I do not know what it would  
11 have been, even if it was the same.

12 Q To your knowledge was any individual who had  
13 shuttled a car for Avis in the past refused or not  
14 allowed to do it again for any reason?

15 A You mean do I know of an instance?

16 Q Yeah.

17 A I don't have any direct knowledge of anyone.  
18 I would assume if a guy was drunk or something he  
19 would usually be refused. I mean he would be a  
20 danger, but I know of none, no.

21 Q Was the need for shuttlers in Phoenix a  
22 regular thing every day or was it only certain times  
23 during the week, weekends or something like that?

24 A Obviously some days were much more of a  
25 need than others.

26 Q Were they regular days, was it every week?



1 A Yeah, it was the same days, right, but what  
2 I'm saying is Monday was slow. I can't say that  
3 there was never any need on Monday. If one time  
4 there was a need, that was a need, but --

5 Q Just to cover the other two cities, were the  
6 procedures in the other two cities to the extent  
7 that they used shuttlers that were used at all  
8 essentially the same as we have been talking about  
9 in Phoenix, nothing major that you can think of that  
10 is different from the procedures of those two  
11 cities?

12 A No, because the need was just to move a car  
13 from one point to another point.

14 Q Nothing different?

15 A Nothing that I can think of.

16 Q They were paid essentially the same way,  
17 either cash or by check?

18 A Yeah, I would assume so.

19 Q Are you familiar with the shuttling opera-  
20 tion now, if there is one?

21 A Yes.

22 Q Would your answers --

23 A I'm the City Manager, yes, you know. I  
24 would hope so.

25 Q Would the answers to the questions back  
26 referring to '62 to '66 reflect really your

1 knowledge of what is going on now or is it personal  
2 knowledge from that period of time?

3 A There would be a major difference in that  
4 now our -- would you want me to explain it?

5 Q Yeah, might as well.

6 A Our need has changed now. We have more  
7 stations and our business has grown, so we have  
8 established contracts with churches, my church  
9 drives one night and the Mormon Church drives one  
10 night. No church will drive on Sunday nights, so I  
11 guess that would leave five nights, right. The  
12 Mormon Church has established a point that we con-  
13 tact, and I think we have -- they even have what we  
14 call Alders Drive-away, I guess, maybe even incor-  
15 porated, but we write the checks out to Alders  
16 Drive-away. We call one person at a certain time of  
17 the day, and we say we need so many drivers, and the  
18 money is given by these people in its entirety to  
19 the church. With my church, the Scottsdale  
20 Congregational Church, they drive on Monday nights,  
21 and that money is given to our church.

22 Q Do you know how long that procedure has been  
23 followed?

24 A Gee, I came here four years ago. Almost  
25 four years ago.

26 Q Okay.

1 A Let me see now. It was on a limited basis  
2 -- when I say four years ago, we started on a very  
3 gradual basis. To the point it is now it's been  
4 only maybe two years.

5 Q Okay.

6 A But what I mean it began by using the  
7 churches.

8 Q Do you know of any occasions when the same  
9 kind of arrangement was made in '65 or '66?

10 A No, I do not.

11 MR. HIPPLE: That's all I've got.

12 MR. STILLMAN: I have no questions.

13

14 (Signature waived.)

15

16 \* \* \* \*

17 [Reporter's Certificate omitted in duplicating]

18

19

20

21

22

23

24

25

26

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT-A-CAR SYSTEM, INC., PLAINTIFF

VS.

UNITED STATES OF AMERICA, DEFENDANT

CIVIL ACTION  
NO. 70-3-70

Filed April 9, 1973

DEPOSITION OF RONALD W. ROBERTSON

On the 6th day of March, A. D., 1973,  
beginning at the hour of 10:45 a.m., at the 12000  
Federal Building, Houston, Harris County, Texas, before  
Herman Chester, a stenotype reporter and notary public  
in and for Harris County, Texas, appeared RONALD W.  
ROBERTSON who, being by me first duly sworn, gave his  
oral deposition in said cause, pursuant to the Federal  
Rules of Civil Procedure, as hereinafter set forth:

A P P E A R A N C E S :

LAW OFFICES OF MR. STEWART B. STILLMAN  
910 Country Club Road  
Garden City, New York 11530  

---

Counsel for Plaintiff

DEPARTMENT OF JUSTICE  
Tax Division  
Washington, D.C. 20530  

---

By: Robert J. Hinkle, Esq.  
Counsel for Defendant

1  
2 IT IS AGREED, STIPULATED AND UNDER-  
3 STOOD by and between the plaintiff and defendant in the  
4 above entitled and numbered cause, acting by and be-  
5 tween their attorneys of record, that the oral deposi-  
6 tion of RONALD W. ROBERTSON may be taken before me,  
7 Herman Chester, a notary public in and for the County of  
8 Harris, State of Texas, that the same may be taken by  
9 me in stenotypy and reduced to typewriting by me, or  
10 under my direction and supervision.

11 IT IS FURTHER AGREED, STIPULATED AND  
12 UNDERSTOOD by and between the parties hereto, acting  
13 by and through their respective counsel, that all for-  
14 malities as to notice and time, including the signature  
15 of the witness to this deposition are hereby expressly  
16 waived, except as to the form of the questions and  
17 responsiveness of the answer; that the oral deposition  
18 of the witness, Ronald W. Robertson, when so taken may  
19 be introduced in evidence by either party on the trial  
20 of said cause, and that all objections to the admissi-  
21 bility of such testimony may be made on the trial of  
22 this cause, in the same manner and to the same effect  
23 as if the witness were on the stand testifying in per-  
24 son.  
25

1 RONALD W. ROBERTSON, called as a witness  
2 by the defendant, having been first duly sworn,  
3 testified upon his oath as follows:

4  
5 DIRECT EXAMINATION

6 QUESTIONS BY MR. HIPPLE:

7 Q State your name and current address, please.

8 A Ronald W. Robertson, 7930 Ithica.

9 Q In Houston?

10 A Houston, Texas.

11 Q What is your current occupation?

12 A City Manager for Avis Rent-a-Car.

13 Q How long have you been employed by Avis?

14 A Since 1964.

15 Q Have you been employed that whole time in Houston?

16 A No.

17 Q Where were you first employed?

18 A Houston.

19 Q How long were you here?

20 A Until '67.

21 Q You were in Houston from '64 to '67?

22 A April of '67.

23 Q We are talking about, in this case, '62 to '66.

24 A Okay.

25 Q In talking about those first two years that you



1       spent in Houston, what was your position during  
2       those years?

3       A     First I was a Rental Agent and then Station Manager  
4       downtown and then Station Manager at the airport.

5       Q     In either one or in any of those capacities did you  
6       become familiar with the shuttling operations of  
7       Avis during that period of time?

8       A     Yes.

9       Q     Would you describe what the shuttlers did?

10      A     Moved cars from one location to another.

11      Q     Approximately how often was it done on a weekly  
12      basis?

13      A     Two or three times a week.

14      Q     Were the shuttlings done only between the airport  
15      and downtown, or stations in the downtown area, or  
16      did you have any longer shuttles, out of town?

17      A     We had some between cities, I imagine. I wasn't  
18      too familiar with that part of it.

19      Q     Could you estimate how often that would have hap-  
20      pened?

21      A     No.

22      Q     Who would be familiar with that part, the long  
23      range shuttling, again during '64 to '66.

24      A     I really don't know who handled it at that time. I  
25      didn't handle the long range, or intercity shuttling.



1 Q Do you know how the shuttlers found out about the  
2 shuttling?

3 A On the days that they shuttled?

4 Q Well, before we get to that point, how would they  
5 find out about it at all, that it was possible to  
6 do it?

7 A I don't know that. This had been going on before  
8 I was employed. It was kind of a continuing thing,  
9 on the particular day that we needed shuttles they  
10 usually came over and asked if we were going to  
11 run any cars. They knew approximately what days  
12 we run cars.

13 Q Was it a certain group, certain individuals from  
14 a certain place?

15 A Most of the time. Well, when I was first employed  
16 and through most of the time I was the downtown  
17 manager, most of them came from businesses around  
18 our downtown office there, particularly a Ford  
19 company across the street.

20 Q Was there a particular person that they came over  
21 to see at the downtown station that they knew was  
22 in charge of this?

23 A The Station Manager, if he was there, if he was  
24 not he might have left word with the Rental Agent,  
25 or whoever was there.

1 Q Was the shuttling operation explained to any of  
2 these people by anybody at Avis about what had to  
3 be done or how it had to be done?

4 A I don't know. All we were told to tell them was to  
5 take a car from here to the airport, or whatever.

6 Q Did the shuttlers have to fill out any personal in-  
7 formation, have to fill out any forms before they  
8 could shuttle?

9 A No.

10 Q Did regular employees have to fill out a personnel  
11 information form before they started to work, an  
12 application form?

13 A Yes.

14 Q The same application form is not used for shuttlers?

15 A No.

16 Q Do you know of any kind of documents or anything  
17 else that had to be filled out before they could  
18 shuttle?

19 A Well, on each trip they made they filled out a  
20 Vehicle Transfer ticket.

21 Q Before we get to the Vehicle Transfer ticket I  
22 mean any personal information.

23 A No.

24 Q Did Avis maintain a list of shuttlers' names and  
25 phone numbers they could call?

1 A No, not that I know of.

2 Q When a car was moved by a shuttler was there any  
3 kind of document involved?

4 A Yes.

5 Q What was that?

6 A A Vehicle Transfer Contract.

7 Q Would you look at the documents in front of you  
8 marked Defendant's Exhibit A and identify that if  
9 you can.

10 A It's a Vehicle Transfer Contract.

11 Q Is that essentially the same document that was  
12 used in that period, '64 to '66?

13 A Essentially. It might have been changed some, I  
14 don't remember.

15 Q As far as the information is concerned is that es-  
16 sentially the same?

17 A Right.

18 Q Including that first paragraph, was that contained  
19 at the time?

20 A As far as I know.

21 Q Was one of those documents used everytime a car was  
22 moved by a shuttler?

23 A Yes.

24 Q Do you know the purpose of that document?

25 A Well, several purposes. One, to keep track of the

1 mileage on the car, and another to show that the  
2 car was moved so that we can pay the shuttler.

3 Q Do you recall any occasion when a shuttler refused  
4 to sign one of those?

5 A No.

6 Q Would he have been allowed to move a car if he had  
7 refused?

8 A Yes.

9 Q If an employee moved a car during his regular hours  
10 would he use a Vehicle Transfer Contract?

11 A No.

12 Q Would he use any kind of document?

13 A Yes. A non-revenue ticket.

14 Q How did that differ from the Vehicle Transfer Con-  
15 tract?

16 A Well, it was for the use of an employee moving a  
17 car.

18 Q How about the information, was it different infor-  
19 mation, to the best of your recollection?

20 A Well, there was different information, but what,  
21 I don't know. There was no - - for one thing there  
22 was no fee on a non-revenue ticket.

23 Q When a shuttler first started shuttling cars for  
24 Avis was he asked for his Social Security number?

25 A No.

1 Q How about his driver's license?

2 A Yes.

3 Q How about his driving record, speeding tickets,  
4 things like that?

5 A No.

6 Q When someone was hired as a service agent or a  
7 fulltime employee was his driver's license in-  
8 spected?

9 A Right.

10 Q How about his driving record?

11 A I don't know, in this period of time. I'm sure  
12 that during an interview with an employee it came  
13 up. I know I would ask this if I was hiring one.  
14 That's about the only way I've got to get it.

15 Q Was there a specific place on the application form  
16 for fulltime employees which covered the driving  
17 record?

18 A I don't believe so but I'm not sure.

19 Q Was the driver's license of the shuttlers checked  
20 everytime they drove, or if you had someone that  
21 had driven in the past did you check again?

22 A No.

23 Q How about the employees, the service agents, people  
24 like that, was their license checked periodically,  
25 or just when they started.

1 A I don't really know. I don't recall any times,  
2 but - -

3 Q This was not part of your duties?

4 A No.

5 Q In this period.

6 A No.

7 Q Were the shuttlers asked for their home address  
8 and telephone number, or office address and phone  
9 number?

10 A No.

11 Q Were they asked for any references?

12 A No.

13 Q Were the fulltime regular employees of Avis asked  
14 for any references?

15 A Yes.

16 Q Was there any kind of an interview before a shuttle  
17 was allowed to shuttle?

18 A No.

19 Q Would you describe the general steps that took  
20 place from the time the shuttle was contacted, or  
21 from the time the shuttle contacted Avis until the  
22 time the car was delivered? Who he saw, where he  
23 went, the documents involved, any checking done  
24 at the point of origin or the destination.

25 A It was very simple. He came over, filled out a

1 Vehicle Transfer Contract, he took the car to  
2 whatever destination we wanted him to go.

3 Q What did he do when he got there?

4 A They all got together in a car and came back.

5 Q Who provided the car to come back?

6 A Avis.

7 Q Was there anyone that they had to see at the  
8 destination or any documents they had to sign there?

9 A No documents. I'm sure they saw somebody when they  
10 delivered the car to them, but no particular per-  
11 son.

12 Q Do you know how these individuals were paid?  
13 Whether it was cash or check.

14 A Cash.

15 Q Was it on a daily basis or weekly?

16 A Daily.

17 Q Was it every trip that they made, or if they made  
18 three or four trips in one day - -

19 A Generally if they made three trips they would all  
20 be at the same time and we would pay them at the  
21 end of the period.

22 Q Do you know how the amount they were paid was  
23 established?

24 A How the amount - - ?

25 Q Yes.



1 A Supply and demand, I guess, whatever we could.

2 Q It was a fixed amount?

3 A Yes, it was a fixed amount per trip. I don't know  
4 how it was established.

5 Q Was there a rate book, or some form that Avis had  
6 that showed how much it was going to be?

7 A No, I'm sure they were told beforehand, or by word  
8 of mouth, through the shuttlers, it was passed on  
9 to each other as to how much it was.

10 Q During this period of time was the amount paid for  
11 any one trip changed, do you recall?

12 A I don't know.

13 Q You had nothing to do with that?

14 A I might have had, but I don't know that.

15 Q Do you know of any case when a shuttler was paid on  
16 a mileage basis?

17 A No.

18 Q Do you know how a shuttler was paid, or how the  
19 amount was established for some of the longer trips  
20 between cities?

21 A No.

22 Q Do you know how the expenses were paid, such as  
23 tolls or gas or oil, things like that?

24 A No. But, I'm sure that if they, you know, had to  
25 put gas in the car for some reason they would have

1       been reimbursed for it.

2       Q       Were the shuttlers given a specific route to go  
3       to the destination?

4       A       No.

5       Q       Were they given a specific time in which to  
6       there?

7       A       No.

8       Q       Were they allowed to use the car for personal pur-  
9       poses on the way?

10      A       No.

11      Q       Was that told to them?

12      A       Here again I don't know specifically whether it was  
13      told to them or not.

14      Q       You never did it yourself?

15      A       Not that I can recall.

16      Q       Was the mileage checked on the car at either

17      A       At both ends.

18      Q       Do you remember or do you know who checked the  
19      mileage?

20      A       Whoever wrote out the - - well, I don't know. It  
21      could have been a service agent, or might have  
22      been a rental agent, whoever was available, one  
23      of the employees.

24      Q       Would it have been the shuttler himself?

25      A       I doubt it, but, you know, I can't say that one

1 time he didn't.

2 Q Can you recall any instructions, or advice or in-  
3 formation given to a shuttler when he picked up a  
4 car or at anytime other than anything that we have  
5 covered here, anything else that was told to him?

6 A No.

7 Q Was the shuttler told what would happen if he got  
8 a speeding ticket on the way?

9 A I'm sure that at sometime they were told that it  
10 was their problem.

11 Q That Avis would not pay for any tickets?

12 A No.

13 Q Were any instructions given to them as to what to  
14 do if the car broke down, or if they had an ac-  
15 cident on the way?

16 A I don't think so.

17 Q Were cars ever moved between the airport and down-  
18 town, or the different stations by regular full-  
19 time employees of Avis, such as the service agents?

20 A Yes.

21 Q How were they paid for that?

22 A Well, most of the times that I can recall they were  
23 on the clock, you know, it was during their work-  
24 ing hours.

25 Q Do you know of any occasion when they were paid off

1 the clock, or extra for doing this?

2 A I don't know of any particular occasion but I do  
3 know that it happened.

4 Q These few occasions you know of was it during the  
5 regular eight hours they were paid extra for driv-  
6 ing or was it after the regular eight hours they  
7 came back and drove a car.

8 A Both happened. Majority of the times they were on  
9 the clock.

10 Q Were they paid any extra, if they drove the;  
11 shuttled the cars from the airport to downtown  
12 while they were on the clock did they get that  
13 dollar and a half or two bucks or whatever?

14 A No.

15 Q If they were driving off the clock would they get  
16 the dollar and a half or two dollars or whatever?

17 A Right.

18 Q How would they get paid for that, the same as the  
19 other shuttlers?

20 A No. They got paid the same if they were on the  
21 clock. If they were shuttling off the clock they  
22 would get paid the same way as regular shuttlers.

23 Q You indicated before that Avis would provide a car  
24 and bring these shuttlers back from their desti-  
25 nation. Who drove that car?



- 1 A Generally it was probably one individual that drove  
2 it, one of the shuttlers that just used one car to  
3 shuttle in, out of the group we were moving.
- 4 Q Was he compensated for driving that?
- 5 A In the same manner that we compensated the rest  
6 of them. We might have, from time to time, paid  
7 him a dollar more, something like that, I don't  
8 know.
- 9 Q Were the shuttlers covered by auto insurance while  
10 driving?
- 11 A Well, not especially. I'm sure that our insurance  
12 covers anybody in our cars but if they had had a  
13 wreck we would have held them responsible. That  
14 doesn't mean anything, we would have still been  
15 responsible for the car.
- 16 Q All right. Describe the difference between the  
17 auto insurance on the car itself and the insurance  
18 of Avis for the general damages to the shuttler  
19 himself.
- 20 A What are you asking?
- 21 Q Does Avis's insurance cover both accidents, or  
22 damage to the car and injury to the individual?
- 23 A No.
- 24 Q It would only have covered the car itself?
- 25 A We even hold him responsible for the car. What I

1 was saying is I don't know whether we could collect  
2 from them.

3 Q My question is, could he collect for his personal  
4 damages from Avis's insurance?

5 A No. As a matter of fact, I seem to recall at one  
6 time that one of them had a wreck and we did not  
7 pay him in anyway.

8 Q Was this coverage, or lack of coverage explained  
9 to any of the shuttlers, as far as you know?

10 A I don't know.

11 Q Do you know of any occasion when a shuttler asked  
12 about it, about insurance coverage?

13 A No.

14 Q Was Social Security, unemployment taxes or with-  
15 holding taxes deducted from the amount the shuttlers  
16 were paid?

17 A No.

18 Q Was anything said to the shuttlers about payroll  
19 deductions?

20 A No.

21 Q Do you know of any who ever asked about payroll  
22 deductions?

23 A No.

24 Q Can you recall any individuals who shuttled cars  
25 during that period of time?

1 A I can recall some faces but no names.

2 Q Can you recall any individuals, not by name but by  
3 face who did it regularly more than a few times?

4 A Well, you know, there was some that did it regular-  
5 ly, but it would depend on what you would call  
6 regular. They might, this week, shuttle once,  
7 maybe next week three times, maybe the next week  
8 we wouldn't shuttle, maybe the next week they  
9 would come back and shuttle some more.

10 Q Did Avis ever place any advertisements in the news-  
11 paper or anywhere else for shuttlers to your know-  
12 ledge?

13 A No.

14 Q Did you ever see any?

15 A No.

16 Q When the shuttlers picked up the cars were they  
17 given anything other than the keys and the Vehicle  
18 Transfer Contract?

19 A No.

20 Q When an employee moved the car on the clock did he  
21 get anything besides the keys and the non-revenue  
22 ticket?

23 A No.

24 Q Were the shuttlers covered by health insurance or  
25 were any other fringe benefits maintained by Avis?



1 A No.

2 Q Were the regular employees who shuttled a car on  
3 the clock covered?

4 A Yes.

5 Q Do you know of any shuttler who ever filed a claim  
6 for any fringe benefit?

7 A No.

8 Q Was any individual who shuttled cars frequently  
9 given preference as a regular shuttler?

10 A No. Generally whoever showed up first, until we  
11 got as many as we wanted, and that was it.

12 Q Do you know if any of the shuttlers ever had to  
13 share part of their fee or compensation with any-  
14 body else?

15 A No.

16 Q Do you know of any who ever complained about being  
17 approached to do that?

18 A No.

19 Q Was there a foreman or a head shuttler, someone  
20 like that who controlled the shuttling operation?

21 A From time to time someone would, you know, I  
22 would say be the stronger of the group, but there  
23 wasn't one for a year at a time or anything like  
24 that, it would be off and on.

25 Q Were the shuttlers given any kind of an identifica-

1        tion card, or badge or anything like that to  
2        identify them as Avis shuttlers?

3        A        No.

4        Q        If they were stopped by a policeman or something  
5        like that they would have nothing to show they  
6        were in anyway connected with Avis except the  
7        Vehicle Transfer Contract?

8        A        Right.

9        Q        During that period of time, '64 to '66, did the  
10       regular fulltime employees of Avis have any  
11       identification of any kind?

12       A        I don't know. We came out with some identification  
13       at one time but I don't know when it came out. I  
14       would hate to say whether we did or didn't. I'm  
15       sure we had our Blue Cross cards that showed we  
16       were employed with Avis.

17       Q        Do you know of any records that were maintained  
18       by Avis to show the dates, the amounts, the pur-  
19       pose of the payments to the shuttlers besides the  
20       Vehicle Transfer Contract?

21       A        The petty cash ticket which they were attached to  
22       when they were paid.

23       Q        When was the petty cash slip signed?

24       A        When they received the money.

25       Q        Did anybody from Avis sign that or initial it?

1 A Yes, the Manager, the Station Manager, I suppose.

2 Q Was there anything on that petty cash slip that  
3 would identify it, symbols or numbers or anything  
4 like that?

5 A You mean were the petty cash slips numbered?

6 Q Yes.

7 A No.

8 Q Was there anything on that slip to identify the  
9 payment as a shuttle payment?

10 A I'm sure it was.

11 Q Do you recall?

12 A I don't know what.

13 Q Were there any kind of numbers, specific informa-  
14 tion, digit numbers relating to the shuttling  
15 operation during that period of time?

16 A Car numbers or - - ?

17 Q Let me show you this. This is a list of names and  
18 information we got from the Garden City warehouse  
19 of Avis, information taken from petty cash slips  
20 identified as part of the shuttling operations.  
21 They show names of individuals, four digit numbers  
22 for some of the individuals, the amounts and dates  
23 of payment. We were trying to identify the four  
24 digit number, looking at the list the number is the  
25 same for different people, different dates.

- 1     A     The four digit number is an employee number, usual-  
2     ly, and I would say that on the petty cash slip  
3     there is a spot for the employee who makes out the  
4     petty cash slip to put his number in, and that's  
5     what this number is, are the people that paid out  
6     the petty cash slip for the shuttlers put it in.
- 7     Q     You see the first name on the list there?
- 8     A     Yes.
- 9     Q     Do you know him?
- 10    A     Yes.
- 11    Q     Russell Spradley.
- 12    A     Right.
- 13    Q     Who is he?
- 14    A     He's my Operations Manager.
- 15    Q     Would you have any idea why his name would show  
16    up on the petty cash slip for shuttling? Would  
17    he have ever shuttled cars for \$63.00, or whatever  
18    that amount is?
- 19    A     No, I don't have any idea what it's there for.
- 20    Q     Would he be one of the individuals during that  
21    period of time that would have signed the petty  
22    cash slips?
- 23    A     Yes.
- 24    Q     You have no idea why he would have received that  
25    payment, though?

1 A In 1963, the date by his name there, he was the  
2 Station Manager downtown. It's like I said, he  
3 could have either signed a petty cash slip as a  
4 Manager, or had a check made out to him to re-  
5 imburse the petty cash fund.

6 Q To your knowledge was any individual who had  
7 shuttled cars for Avis in the past refused or not  
8 allowed to do it again for any reason?

9 A Any individual refused - - ?

10 Q Not allowed to do it again?

11 A I'm sure there has been a case.

12 Q Do you know of any specific ones?

13 A No.

14 Q Was the need for shuttlers regular, or was it just  
15 certain days a week you knew you would need  
16 shuttlers?

17 A You might call it regular, you know certain days,  
18 but I'm sure there was some weeks we didn't even  
19 move cars. Well, I know there were.

20 Q If you needed cars moved at a particular time and  
21 no shuttlers were around was there anyway you had  
22 to contact individuals to bring them in?

23 A Not usually. Like I said before, they usually  
24 worked in the daytime and would just come over at  
25 night, or in the evening.



1 Q If there was an occasion you needed a number of  
2 cars moved and there was shuttlers available would  
3 you use shuttlers as opposed to regular employees,  
4 like service agents?

5 A Yes.

6 MR. HIPPLE: That's all the questions  
7 I've got.

8 MR. STILLMAN: No questions.

9 (Signature waived.)

10 \* \* \* \*

11 [Reporter's Certificate omitted in duplicating]  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF NEW YORK  
3

4  
5 AVIS RENT-A-CAR SYSTEM, INC., PLAINTIFF

6 VS.

7 UNITED STATES OF AMERICA, DEFENDANT

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
X  
X CIVIL ACTION  
X NO. 70-D-70

X Filed April 9, 1973

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
DEPOSITION OF RUSSELL SPRADLEY

On the 6th day of March, A. D., 1973,  
beginning at the hour of 10:00 a.m., at the 12000  
Federal Building, Houston, Harris County, Texas, before  
Herman Chester, a stenotype reporter and notary public  
in and for Harris County, Texas, appeared RUSSELL  
SPRADLEY who, being by me first duly sworn, gave his  
oral deposition in said cause, pursuant to the Federal  
Rules of Civil Procedure, as hereinafter set forth:



1  
2  
3  
4  
5 A P P E A R A N C E S :  
6

7 LAW OFFICES OF MR. STEWART B. STILLMAN  
8 910 Country Club Road  
9 Garden City, New York 11530  
10 Counsel for Plaintiff  
11

12 DEPARTMENT OF JUSTICE  
13 Tax Division  
14 Washington, D.C. 20530  
15 By: Robert J. Hipple, Esq.  
16 Counsel for Defendant  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 IT IS AGREED, STIPULATED AND UNDER-  
3 STOOD by and between the plaintiff and defendant in the  
4 above entitled and numbered cause, acting by and be-  
5 tween their attorneys of record, that the oral deposi-  
6 tion of RUSSELL SPRADLEY may be taken before me, Herman  
7 Chester, a notary public in and for the County of Harris,  
8 State of Texas, that the same may be taken by me in  
9 stenotypy and reduced to typewriting by me, or under  
10 my direction and supervision.

11 IT IS FURTHER AGREED, STIPULATED AND  
12 UNDERSTOOD by and between the parties hereto, acting  
13 by and through their respective counsel, that all for-  
14 malities as to notice and time, including the signature  
15 of the witness to this deposition are hereby expressly  
16 waived, except as to the form of the questions and  
17 responsiveness of the answer; that the oral deposition  
18 of the witness, Russell Spradley, when so taken may  
19 be introduced in evidence by either party on the trial  
20 of said cause, and that all objections to the admissi-  
21 bility of such testimony may be made on the trial of  
22 this cause, in the same manner and to the same effect  
23 as if the witness were on the stand testifying in per-  
24 son.  
25

1                   RUSSELL SPRADLEY, called as a witness  
2 by the defendant, having been first duly sworn, testi-  
3 fied upon his oath as follows:

4  
5                   DIRECT EXAMINATION

6                   QUESTIONS BY MR. HIPPLE:

7       Q     State your full name and address, please.  
8       A     Russell Spradley, 1935 Cebra Street, Houston.  
9       Q     What is your current occupation?  
10      A     Operations Manager with Avis Rent-a-Car.  
11      Q     How long have you been with Avis?  
12      A     Nine years.  
13      Q     Since '64?  
14      A     '64 - - I retired from the Air Force in '64 and  
15             came with Avis.  
16      Q     Have you been in Houston all this time?  
17      A     Yes, sir.  
18      Q     In what capacity?  
19      A     Rental agent.  
20      Q     Downtown or at the airport?  
21      A     I started at the downtown location, sir.  
22      Q     In your various capacities with Avis have you be-  
23             come familiar with the shuttling operations?  
24      A     Some.  
25      Q     Are you familiar with what the shuttlers do?

1 A Yes, sir.

2 Q Describe what they do.

3 A Move a car from one station to another station.

4 Q Do you know how often this is required? We are  
5 talking about the period from '64 to '66.

6 A Not too much along in that time, because we didn't  
7 have too many cars in the City.

8 Q Twice a week, three times a week?

9 A Once or twice a week.

10 Q Was it ever done with employees, the shuttling?

11 A No, sir.

12 Q I mean during the regular working hours?

13 A Yes, sir.

14 Q Do you know any employees who did it off the  
15 clock after the regular eight hour shift?

16 A Not to my knowledge.

17 Q Was there any company rule against them doing  
18 this?

19 A No, no company rule.

20 Q Do you have any idea how the individuals that did  
21 the shuttling found out about it?

22 A We had this Ford Motor Company dealership across  
23 the street and we would call over there, or they  
24 would call us and want to know did we want a car  
25 moved. We would say yes or no.

1 Q This is a Ford dealership?

2 A Ford dealership.

3 Q Employees of this Ford dealership?

4 A Employees of this Ford dealership.

5 Q Was this during regular working hours when they  
6 were working for Ford, or off of working hours?

7 A Really I don't know. One man would come over  
8 there and he would ask us if we wanted two or  
9 three cars moved for us.

10 Q Do you recall who he was?

11 A No, it was a colored fellow.

12 Q Do you know his name?

13 A No.

14 Q Who did he contact with Avis?

15 A The Station Manager, I presume, or someone in  
16 charge.

17 Q He would come over and arrange for anyone you  
18 needed?

19 A Yes, sir.

20 Q Do you know if these individuals that did the  
21 shuttling have had to fill out any personnel forms  
22 before they shuttled?

23 A No, sir.

24 Q They did not?

25 A No, sir.

1 Q Did Avis keep a list of individuals who had shuttled  
2 in the past?

3 A No, sir.

4 Q When a car was moved was there any kind of docu-  
5 ments that was used?

6 A We would make out a VTC, Vehicle Transfer Contract.

7 Q Would you look at Defendant's Exhibit A and see if  
8 you can identify that; and remember we are talking  
9 about '64 to '66.

10 A At this time, one similar to that, of course it's  
11 been changed since 1964.

12 Q Similar information as is on that form?

13 A Not the same. It amounts to about the same.

14 Q Do you recall the information that was on the form  
15 in 1964 to 1966?

16 A No, sir.

17 Q Do you recall if the paragraph on the top of that  
18 was on the form?

19 A About the same. I don't know, it probably means  
20 the same.

21 Q And was one of those Vehicle Transfer Contracts  
22 used everytime a shuttler moved a car?

23 A Yes, sir.

24 Q Do you know of any occasion when a car was moved  
25 without one of those?

1 A No, sir.

2 Q Is a car ever moved at Avis by an employee or by  
3 one of these shuttlers or by anyone else without  
4 some kind of documentation?

5 A No, sir.

6 Q Do you know the purpose of that Vehicle Transfer  
7 Contract?

8 A Yes.

9 Q Would you explain it?

10 A We would pay so much from one destination to  
11 another. Just that.

12 Q Okay. Do you know of any shuttler who ever refused  
13 to sign one of those Vehicle Transfer Contracts?

14 A Not to my knowledge.

15 Q If a regular fulltime employee of Avis moved a car  
16 from one station to another would he use a Vehicle  
17 Transfer Contract?

18 A He would. A fulltime employee would use what we  
19 call a non-revenue ticket, ~~similar to this~~, you  
20 would use this when you were on duty.

21 Q How would a non-revenue ticket differ from that  
22 Vehicle Transfer Contract?

23 A A non-revenue ticket states that you are on duty  
24 and employed by Avis. This form here would say  
25 that you are not employed by Avis.



1 Q Was the purpose or effect of that Vehicle Transfer  
2 Contract ever explained to the shuttlers, to your  
3 knowledge?

4 A Yes.

5 Q In what way was it explained to them?

6 A By reading it to them.

7 Q Were the shuttlers asked for Social Security num-  
8 bers when they first started shuttling, to your  
9 knowledge?

10 A I don't recall.

11 Q Were they asked for their driver's license?

12 A Yes, sir.

13 Q Who would look at that?

14 A The Manager, whoever was in charge.

15 Q Was that everytime they drove, or if someone had  
16 driven in the past would they look at his driver's  
17 license again?

18 A At least twice a month.

19 Q This was including the shuttlers?

20 A Yes, sir.

21 Q Now, about the regular employees, was there a  
22 regular program of checking their driver's license?

23 A Yes, every ten days.

24 Q Every two weeks?

25 A Every two weeks, yes, sir.

1 Q Was the driving record of the shuttlers checked?

2 A No, sir.

3 Q There was no form, or anything like that they had  
4 to fill out as to accidents or speeding tickets,  
5 things like that?

6 A I don't recall.

7 Q Does the driver's license in Texas reveal some of  
8 that information on anyone? Some states they have  
9 it on the back.

10 A I don't think they do in Texas, I don't believe  
11 they do.

12 Q Were the shuttlers asked for their home address  
13 and telephone number?

14 A Yes, sir.

15 Q This was - - was there a form that they used to  
16 fill out this information?

17 A Yes.

18 Q What form was this information gathered on?

19 A I don't recall, I just don't recall.

20 Q Do you know who kept the name and address, or phone  
21 number?

22 A No, sir, I don't.

23 Q Did the regular fulltime employees have a form  
24 which they had to use to keep track of their driv-  
25 ing records?

1 A No, sir.

2 Q Were the shuttlers asked for any references?

3 A No, sir, not to my knowledge.

4 Q Did the regular fulltime employees have an appli-  
5 cation form or anything like that they used when  
6 they first started working, service agents or  
7 counter people?

8 A We have a regular application that you fill out  
9 for employment.

10 Q Did the shuttlers ever fill out a form like this?

11 A I don't recall.

12 Q The regular fulltime employees, such as the service  
13 agent or people like that, were they asked for  
14 references?

15 A You mean on their applications?

16 Q Yes.

17 A Oh, yes.

18 Q Was there any kind of an interview with the shut-  
19 tlers before they could begin shuttling?

20 A Nothing but take their driver's license.

21 Q Now, describe the general steps, if you know, from  
22 the time the shuttlers was contacted until the  
23 time delivery was made at their destination.

24 A Well, of course, like I said once before, this  
25 individual would come over to our station and he

1 would bring four or five men with him and he would  
2 fill out a VTC.

3 Q One for each car?

4 A Yes.

5 He would move the car from that destination  
6 to another.

7 Q What would happen when they got to the destination,  
8 was there a checkpoint?

9 A They would leave a copy there after the car was  
10 taken over.

11 Q Do you know how many copies there was?

12 A Five, I believe.

13 Q Do you know where the five copies went?

14 A I think we keep one or two.

15 Q That's the origination point?

16 A Yes. We keep one at the station the car is  
17 leaving from, we leave one at the station that  
18 it's going to.

19 Q The shuttler gets one.

20 A The shuttler probably gets one.

21 Q Okay. Do you know how the individuals were paid,  
22 was it cash, a check.

23 A Paid in cash.

24 Q Was it actual cash or - -

25 A Actual cash.

- 1 Q That's at the end of each trip?
- 2 A Each trip, each day.
- 3 Q Each trip or each, day?
- 4 A Each day.
- 5 Q If they had five or six trips a day they got paid
- 6 at the end of the day?
- 7 A Yes.
- 8 Q Do you know how many were paid at the end of the
- 9 week, or the end of two weeks?
- 10 A No, sir.
- 11 Q How was the amount fixed?
- 12 A On the petty cash. It has the amount on the petty
- 13 cash slip.
- 14 Q How was it decided how much they were going to get
- 15 for each trip?
- 16 A We paid so much from one destination to another,
- 17 a dollar, a dollar and a half, a dollar seventy
- 18 five cents, whatever it may be.
- 19 Q Do you remember how much it was, say, downtown to
- 20 the airport?
- 21 A I don't recall what they paid at that time, sir.
- 22 Q More than Two dollars?
- 23 A It wasn't that much.
- 24 Q And was there any expenses on the way, tolls or
- 25 gas or anything like that?

1 A No, sir.

2 Q Do you know of any occasion when any shuttler went  
3 any further than Here to the airport or any station  
4 in Houston?

5 A No, sir.

6 Q Like to Dallas or back?

7 A No, sir.

8 Q Were the shuttlers used during the day, regular  
9 working hours, as well as weekends?

10 A Whenever we could get them.

11 Q Are there any guidelines or rules to follow on  
12 when you would use a shuttler and when you would  
13 use a regular fulltime employee?

14 A No, sir.

15 Q If a shuttler were available you would use a  
16 shuttler in preference to a regular fulltime em-  
17 ployee?

18 A We would use a fulltime employee, because we  
19 couldn't do without them, unless business was real  
20 bad, we would just use shuttlers instead.

21 Q Were the shuttlers given a specific route to  
22 follow to their destination?

23 A Yes.

24 Q Were they given a specific time in which to get  
25 there?

1 A Yes, sir. Of course, usually they had a lead  
2 shuttler, he would follow them and make sure they  
3 all got there about the same time.

4 Q Was he a fulltime employee of Avis?

5 A No, sir.

6 Q Would he have been from the Ford company?

7 A Yes. Either a walk-in or from across the street.

8 Q Was he paid more than the other shuttlers?

9 A No, sir.

10 Q How would they get back from their destination?

11 A The lead shuttler would bring them back in the  
12 car.

13 Q Was he paid a one way trip?

14 A Yes.

15 Q Were the shuttlers allowed to use the cars for any  
16 personal purpose on the way to the destination?

17 A No, sir.

18 Q Were they told that?

19 A Yes, sir.

20 Q Was the mileage recorded on each vehicle that was  
21 shuttled?

22 A It was checked at the origination point and at the  
23 end of the destination, yes.

24 Q Would the shuttlers do that?

25 A He would get the mileage - - no, we would get the



1 mileage out and he would get the mileage in and  
2 we would check behind him.

3 Q Do you know whether the shuttlers were paid on a  
4 mileage basis rather than a flat rate?

5 A No, sir.

6 Q Do you know whether any information was given to  
7 any shuttler about insurance, whether they were or  
8 weren't covered?

9 A They were just told to drive carefully, drive  
10 within the speed limits.

11 Q Were they told what would happen if they got a  
12 speeding ticket?

13 A Yes.

14 Q What would that be?

15 A They would pay for it.

16 Q Were they told this everytime they drove?

17 A I don't know, but they were told.

18 Q What instructions were they given if they should  
19 have an accident?

20 A They were to call us.

21 Q Were they given a specific number to call?

22 A Yes.

23 Q Which number, the originating station or the des-  
24 tination station?

25 A They would call the station they just left.

1 Q Were the shuttlers covered by insurance while they  
2 were driving, auto insurance?

3 A I don't know.

4 Q How about the cars themselves, were they covered  
5 for - -

6 A They were insured.

7 Q Was the question of automobile insurance coverage  
8 explained to the shuttlers before they left?

9 A I don't know, but I'm sure it was.

10 Q Do you know of any occasion where a shuttler asked  
11 about it?

12 A No, sir.

13 Q Was Social Security and unemployment taxes, or  
14 withholding taxes deducted from the pay to the  
15 shuttlers at the end of the day?

16 A I don't know.

17 Q Was anything said about payroll deductions?

18 A I really don't know.

19 Q You never asked, yourself?

20 A I never did.

21 Q Have you ever had anyone ask about payroll de-  
22 ductions?

23 A No, sir.

24 Q Do you recall any particular individuals who were  
25 shuttling during that time?

1 A No, sir.

2 Q Were there any particular individuals who did it  
3 frequently?

4 A No. We would just get, like I say, them from  
5 across the street. See, one guy would come one  
6 day and we wouldn't see him no more.

7 Q Do you know of any other source of shuttlers be-  
8 sides the Ford dealership across the street?

9 A Like I say, people - - word of mouth, it gets  
10 around and they would come into the station and  
11 ask us about shuttling.

12 Q Did Avis itself ever advertise for shuttlers that  
13 you know of?

14 A No, sir.

15 Q Were the shuttlers given anything else when they  
16 got a car besides the keys and the Vehicle Trans-  
17 fer Contract?

18 A That's all, that's it.

19 Q How about employees, when they moved a car, did  
20 they get anything besides the keys and the non-  
21 revenue ticket?

22 A They got the non-revenue ticket and the keys, that's  
23 it.

24 Q Was there any other distinction in the way the  
25 shuttling operation was handled by the employees

1 and the other individuals?

2 A No. Different forms is all.

3 Q Were the shuttlers covered by health insurance or  
4 any other fringe benefits maintained by Avis?

5 A Not that I know of.

6 Q Do you know of any shuttlers who ever filed a claim  
7 for any kind of fringe benefits?

8 A No, sir.

9 Q Was anyone who shuttled frequently given preference  
10 on where to shuttle?

11 A No, not to my knowledge.

12 Q Did any shuttler ever have to share part of his  
13 fee or compensation with anybody else?

14 A I don't know.

15 Q Did you have anyone ever complain about having to  
16 do that?

17 A No, not to my knowledge.

18 Q Was there someone who was in charge of the car  
19 shuttling operation?

20 A Usually the lead agent, the Station Manager would  
21 kind of take control, make sure everything was  
22 done properly.

23 Q Was there a car control man in Houston at that time?

24 A No, sir.

25 Q Did the shuttlers have any kind of identification,

- 1 a badge, a card, anything?
- 2 A Just their driver's license.
- 3 Q Nothing that they would show, say if they were
- 4 stopped by the Police on the way to the destina-
- 5 tion, that they had the car, other than the Vehicle
- 6 Transfer Contract?
- 7 A That's all.
- 8 Q Were fulltime regular employees of Avis given any
- 9 kind of identification?
- 10 A We have employee identification cards.
- 11 Q Do you know what that was from '64 to '66, what
- 12 it looked like?
- 13 A No. But, we had employee identification cards.
- 14 Q There was definitely some kind of identification
- 15 during that period of time?
- 16 A Yes.
- 17 Q Do you know of any records maintained by Avis to
- 18 show the dates or amounts or circumstances of
- 19 shuttling payments besides the Vehicle Transfer
- 20 Contract?
- 21 A No, sir.
- 22 Q When the shuttlers turned in the car at the airport
- 23 was he required to sign a receipt or payment or
- 24 petty cash slip, something like that?
- 25 A He would usually get paid at the downtown location.

1 Q Was there any kind of receipt that he signed, petty  
2 cash slip, to show that he had been paid?

3 A Yes, sir.

4 Q Do you recall what that looked like?

5 A Just a regular petty cash form, just a regular  
6 payee form, small form.

7 Q It wasn't a specific form just for shuttling?

8 A No.

9 Q It was used for all the petty cash payments?

10 A That's right.

11 Q Was there any identifying marks on the petty cash  
12 slip?

13 A Numbers or symbols?

14 Q Numbers or symbols.

15 A I think there were, but I'm not positive.

16 Q Do you recall whether they were numbered serially,  
17 the forms themselves?

18 A They would have on the form, paid to Mr. Jones, so  
19 much, to take a car downtown, to the airport or  
20 airport, downtown.

21 Q Was there a spot on the form to enter an account  
22 number, or something else, to identify this as a  
23 payment for shuttling?

24 A Not to my knowledge.

25 Q Do you know of any account numbers or other numbers



1 which would identify the shuttling operations as  
2 such?

3 A I'm sure that there is an account for it, sir, but  
4 I don't know it. That would be in administration  
5 accounting procedures.

6 Q Let me show you a list of names and numbers and  
7 explain where we got this. We sent some people to  
8 a warehouse maintained by Avis in Garden City,  
9 Long Island. From the petty cash slips in the  
10 warehouse we pulled a list of names. In this  
11 column on this side of the list is names, the se-  
12 cond column is called EMP No., and the amount and  
13 date.

14 A All Avis employees has an employee number.

15 Q That was the question. Why are some of the numbers  
16 the same for different people?

17 A All numbers are different.

18 Q They are?

19 A They should be different. Like, I have an employee  
20 number nobody else has my employee number.

21 Q These are shuttlers, these are parttime people here.  
22 We have two different names with the same number,  
23 2219.

24 A They could have given them a number the same, as  
25 far as I know, I don't recall.



1 Q You don't know specifically what that number is?

2 A No, sir. Could be just a number for this particu-  
3 lar individual who shuttled for us everyday, or  
4 twice a week, and they gave him that number. At  
5 that time I was a Rental Agent.

6 Q Okay. To your knowledge was any individual who had  
7 shuttled cars for Avis ever refused or not allowed  
8 to do it again for any reason?

9 A Not to my knowledge.

10 Q Was this need for shuttlers a regular thing, or just  
11 on certain days when you needed shuttlers?

12 A We needed shuttling once or twice a week, cars to  
13 be taken from one destination to another.

14 Q Was it a specific day?

15 A Usually Monday and Friday.

16 MR. HIPPLE: That's all I've got.

17 MR. STILLMAN: I have no questions.

18 (Signature waived.)  
19

20 \* \* \* \* \*  
21 [Reporter's Certificate omitted in duplicating]  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

AVIS RENT-A-CAR SYSTEM, INC., PLAINTIFF

VS.

UNITED STATES OF AMERICA, DEFENDANT

CIVIL ACTION  
NO. 70-C-70

Filed April 9, 1973

DEPOSITION OF JAMES HENRY ADAMS

On the 6th day of March, A. D., 1973,  
beginning at the hour of 9:00 a.m., at the 12000  
Federal Building, Houston, Harris County, Texas, before  
Norman Chester, a stenotype reporter and notary public  
in and for Harris County, Texas, appeared JAMES HENRY  
ADAMS who, being by me first duly sworn, gave his oral  
deposition in said cause, pursuant to the Federal Rules  
of Civil Procedure, as hereinafter set forth:

1  
2  
3  
4  
5 A P P E A R A N C E S :  
6

7 LAW OFFICES OF MR. STEWART B. STILLMAN  
8 910 Country Club Road  
Garden City, New York 11530  
9 Counsel for Plaintiff

10 DEPARTMENT OF JUSTICE  
11 Tax Division  
Washington, D.C. 20530  
12 By: Robert J. Hinkle, Esq.  
13 Counsel for Defendant  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2 IT IS AGREED, STIPULATED AND UNDER-  
3 STOOD by and between the plaintiff and defendant in the  
4 above entitled and numbered cause, acting by and be-  
5 tween their attorneys of record, that the oral deposi-  
6 tion of JAMES HENRY ADAMS may be taken before me, Herman  
7 Chester, a notary public in and for the County of Harris,  
8 State of Texas, that the same may be taken by me in  
9 stenotypy and reduced to typewriting by me, or under  
10 my direction and supervision.

11 IT IS FURTHER AGREED, STIPULATED AND  
12 UNDERSTOOD by and between the parties hereto, acting  
13 by and through their respective counsel, that all for-  
14 malities as to notice and time, including the signature  
15 of the witness to this deposition, are hereby expressly  
16 waived, except as to the form of the questions and  
17 responsiveness of the answer; that the oral deposition  
18 of the witness, James Henry Adams, when so taken may  
19 be introduced in evidence by either party on the trial  
20 of said cause, and that all objections to the admissi-  
21 bility of such testimony may be made on the trial of  
22 this cause, in the same manner and to the same effect  
23 as if the witness were on the stand testifying in per-  
24 son.  
25

1 JAMES HENRY ADAMS, called as a witness  
2 by the defendant, having been first duly sworn, testi-  
3 fied upon his oath as follows:  
4

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. HIPPLE:

7 Q State your full name and address, please.

8 A James Henry Adams.

9 Q And your address?

10 A 1014 Jefferson.

11 Q In Houston?

12 A Houston, Texas.

13 Q What is your occupation?

14 A Night watchman.

15 Q What was your occupation during the years 1952 to  
16 1966.

17 A I was working for Avis Rent-a-Car.

18 Q In what position?

19 A In the Service Agents Department.

20 Q How long had you been employed by Avis - - how long  
21 have you worked for Avis?

22 A 15 years.

23 Q What were your duties as a service agent?

24 A Service the cars, wash them, grease them, repair  
25 them.

1 Q Where did you work, at the airport or downtown?

2 A Downtown.

3 Q Did you ever act as a car shuttler for Avis?

4 A I moved some cars for them but I was on the clock.

5 Q Did you ever shuttle a car off the clock?

6 A No.

7 Q Where did you normally shuttle the cars to when  
8 you were on the clock?

9 A From the airport downtown and different stations.

10 Q All within the City area?

11 A All within the City area.

12 Q Did you ever go any longer distance, like to Dallas  
13 or some other city?

14 A I have went to San Antonio and also Fort Worth to  
15 pick up trucks. It was one way.

16 Q Were you on the clock when you did that?

17 A Yes, sir.

18 Q Did you always do that within a normal eight hour  
19 working period, or did you do that in overtime?

20 A Very seldom was it overtime. It was the working  
21 period.

22 Q Was the shuttling done everyday?

23 A No, sir.

24 Q Could you estimate how often you did it?

25 A I would estimate about three times a week.

1 Q Do you know of anyone who did any car shuttling  
2 for Avis in Houston who was not an employee, a  
3 fulltime employee, such as yourself, not by name,  
4 just people?

5 A I have known some of them but I don't know their  
6 names.

7 Q Was there a regular group of people who did that  
8 that you saw?

9 A No, sir.

10 Q Could you guess how many people were involved in  
11 this?

12 A During that time I don't think there was but  
13 about three or four.

14 Q Were you paid anything extra for doing this  
15 shuttling?

16 A No, sir. I was on the clock.

17 Q Do you know how the people who were off the clock  
18 were paid?

19 A No, sir, I don't.

20 Q Do you know if they were paid?

21 A Must have been paid or they sure wouldn't have  
22 went anywhere.

23 Q When Avis wanted a car shuttled from the airport  
24 to downtown or somewhere else who contacted you  
25 about it?



- 1 A The Office Manager.
- 2 Q Was there anybody else, or just the Office Manager?
- 3 A Office Manager or City Manager.
- 4 Q Did anyone else move cars at the same time you did?
- 5 A There was some other employees that did.
- 6 Q Were there any kind of documents or forms, any-
- 7 thing like that that you used when you moved the
- 8 cars, any kind of documents or papers? When you
- 9 rent a car you get a rental contract. Did you
- 10 have any documents, any kind of documents when you
- 11 moved a car?
- 12 A No, sir.
- 13 Q Was there anything you used to keep track of the
- 14 mileage?
- 15 A Yes, sir.
- 16 Q What was that?
- 17 A A non-retail ticket.
- 18 Q Do you remember what information was contained on
- 19 that ticket?
- 20 A You clocked it out at eight, you put the mileage
- 21 out and the mileage in when you get it to your
- 22 destination.
- 23 Q Did it have your name on it when you got the car?
- 24 A Yes, sir.
- 25 Q Did you have to sign it?

B

1 A Yes, sir, that's right.

2 Q Have you ever seen one of these, which is marked  
3 Defendant's Exhibit A, a vehicle transfer contract?

4 A Never did use one of those.

5 Q Have you ever seen one before?

6 A No, sir, never did.

7 Q You never saw one of these when you moved a car,  
8 shuttled a car?

9 A No, sir.

10 Q When you came to work at Avis did you punch a  
11 clock?

12 A Yes, sir.

13 Q Punch in and punch out?

14 A Punch in and punch out.

15 Q Is that how you kept track of your time?

16 A Yes.

17 Q Do you know what the number on the non-payment  
18 ticket was?

19 A To keep contact with the mileage the car was driven.

20 Q When you first started to working for Avis did you  
21 fill out any kind of application form, personnel  
22 form with your name and address and things like  
23 that on it?

24 A Yes, sir.

25 Q Do you remember when it was you started working

1 for Avis?

2 A December the 16th, 1956.

3 Q Was that here in Houston?

4 A Yes, sir.

5 Q And you put your Social Security number on that?

6 A Yes, sir.

7 Q Did anybody check your driver's license when you  
8 first started working?

9 A Yes, sir.

10 Q Did they check it again after that?

11 A About every three months.

12 Q Do you remember who it was that checked every three  
13 months?

14 A The City Manager.

15 Q Did he check everybody's driver's license every  
16 three months?

17 A Yes, sir, everybody.

18 Q How about your driving record, speeding tickets,  
19 things like that.

20 A I never did have one.

21 Q Did they keep track of that?

22 A Yes, sir.

23 Q Is that also a regular thing they check on?

24 A Yes, sir.

25 Q Every three months?

1 A Yes, sir.

2 Q When you got one who would find out about it?

3 A They check about every three months.

4 If you had one there they would know it be-  
5 cause it would be in one of the cars. You couldn't  
6 get by with it.

7 Q Was there a form you had to fill out, a driving  
8 record form? If you got a speeding ticket or if  
9 you had an accident you had to fill out a form?

10 A If you had an accident you would have to fill one  
11 out. I happen to be fortunate enough never to  
12 have one.

13 Q Did you have any kind of interview before you  
14 started working for Avis?

15 A The day I started?

16 Q That's what I meant, when you first started.

17 A Yes.

18 Q Was there any kind of a general procedure that you  
19 followed when you had to move a car from one sta-  
20 tion to another, somebody to see, documents to  
21 get, check-in procedures when you got to the new  
22 station, what steps did you follow?

23 A On the non-revenue ticket they would write it out  
24 and you would sign it and put your mileage on it  
25 and when you got to where you were taking the car

1       you would take the mileage there and they clocked  
2       it in there.

3       Q     Who did you see when you got to where you were  
4       supposed to go?

5       A     The rental agent.

6       Q     No specific person?

7       A     Just so it got to the office, right.

8       Q     And any of the times that you were shuttling the  
9       cars did you have any expenses like gas or tolls  
10      or anything like that?

11      A     No, sir.

12      Q     And you say you don't know how much, or how the  
13      non-employee shuttlers were paid?

14      A     No, sir, I don't.

15      Q     When you shuttled the cars between the different  
16      stations did they give you a specific route to  
17      follow?

18      A     We take the shortest route.

19      Q     Did they tell you that, or did you just do it?  
20      Did they tell you to do that?

21      A     We did it ourselves.

22      Q     Did you have a specific time to get there, to  
23      where you were going?

24      A     No, sir.

25      Q     Were you allowed to use the car for any personal

1 purposes on the way?

2 A No, sir.

3 Q Did anybody tell you you couldn't?

4 A That was a company rule, you could not do it.

5 Q Did anybody tell you what would happen if you got  
6 a speeding ticket while you were driving the car?

7 A If you got one you got to pay it yourself.

8 Q Is that another company rule?

9 A Yes.

10 Q How about if you broke down.

11 A If you broke down you would call back to the com-  
12 pany and they would send a mechanic.

13 Q Is this something you knew, or did they tell you  
14 to do that.

15 A We had to do that.

16 Q Did somebody tell you if you had a breakdown you  
17 had to do that?

18 A They told us to call the office.

19 Q How about an accident, did they tell you to  
20 do then?

21 A Call the office and call the Police Department.

22 Q Did Avis have a specific form you had to fill out  
23 if you had an accident?

24 A Yes, sir.

25 Q Do you know what the shuttlers who were not regular



1 fulltime employees were supposed to do if they had  
2 an accident?

3 A They were supposed to do the same thing, call the  
4 office, call the Police.

5 Q Did they fill out the same form?

6 A If they had an accident they filled it out, yes,  
7 sir.

8 Q Do you know if you were covered by automobile in-  
9 surance owned by Avis while you were driving these  
10 cars?

11 A They had us insured.

12 Q Did that cover both you and the car if you got in-  
13 jured yourself?

14 A Covered me and the car?

15 Q Yes.

16 A Yes.

17 Q Can you recall anyone who was a shuttler during  
18 that period, '62 to '66, who was not a fulltime  
19 employee?

20 A Not a - -

21 Q Not a fulltime employee.

22 A I wouldn't know them by name.

23 Q Do you know anyone else who was a fulltime em-  
24 ployee such as yourself, such as a service agent  
25 who shuttled cars off of the clock?



1 A No, I don't. All fulltime employees shuttled on  
2 the clock.

3 Q Did you ever see any advertisements for shuttlers  
4 in the newspaper, anyplace like that?

5 A No, sir.

6 Q Were you given anything when you picked up the car  
7 besides the keys and the non-revenue ticket?

8 A Nothing else.

9 Q Do you recall whether you were covered by health  
10 insurance or workman's compensation or any other  
11 fringe benefits of Avis while you were working?

12 A Blue Cross, Blue Shield, and I can't recall the  
13 name of the other one.

14 Q Were Avis employees members of a union at that  
15 time?

16 A No, not in '62.

17 Q How about '66?

18 A Some of them was, some not.

19 Q Were any of them who drove cars members of the  
20 union, such as yourself?

21 A No, sir. I wasn't a union man.

22 Q Do you have any idea how anybody at Avis contacted  
23 the shuttlers to move the cars other than the em-  
24 ployees, people who did the off the clock shuttling?

25 A No, sir.

- 1 Q You don't know if they maintained a list of people?
- 2 A No, sir, I don't.
- 3 Q Or people just hung around the garage?
- 4 A No.
- 5 Q Did you ever see a group of these people hanging
- 6 around the garage at times?
- 7 A I have seen them come around there looking for work,
- 8 and we sent them on their way.
- 9 Q Do you know if there was a foreman, or a lead
- 10 shuttler, or anyone like that who handled the
- 11 shuttling operation of these people working off
- 12 the clock?
- 13 A No, sir.
- 14 Q Beginning - - well, we are talking about '62 to
- 15 '66, did you have any kind of identification card
- 16 or badge or something like that to identify you as
- 17 an employee?
- 18 A I had a card.
- 19 Q Do you remember when you got that?
- 20 A I can't remember. On the first one - - I can't
- 21 remember when we first got the first one.
- 22 Q Would it have been sometime during that period,
- 23 '62 to '66?
- 24 A Yes. I haven't got it.
- 25 Q You carry about as many cards as I do.

- 1 A That card is for that.
- 2 Q Do you think you got the first one sometime be-
- 3 tween '62 and '66?
- 4 A Between '64 and '66.
- 5 Q Did all employees of Avis get those?
- 6 A Yes, sir.
- 7 Q Fulltime people?
- 8 A Yes, sir.
- 9 Q Is that only for the purpose of identification?
- 10 A Identification, yeah, that's all.
- 11 Q Do you know of any other records that Avis kept
- 12 or maintained when you moved a car on the clock
- 13 besides that non-revenue ticket which was all you
- 14 signed, any other kind of document?
- 15 A No, sir.
- 16 Q Do you know of anyone who shuttled cars on the
- 17 clock other than service people or people like
- 18 that that Avis refused to allow to do it for
- 19 any reason?
- 20 A No, sir, I don't. When I would get off work I
- 21 would head home, I didn't hang around.
- 22 Q Okay. You indicated that you moved cars two or
- 23 three times a week as a shuttler, do you know if
- 24 there was any particular time during the week that
- 25 there was a heavy need for shuttlers, a lot of cars

1 that had to be moved?

2 A During the middle of the week they would start  
3 running out at the airport and we would start making  
4 moves from downtown to the airport, and on weekends  
5 we would have to bring them from the airport down-  
6 town a lot of times.

7 MR. HIPPLE: That's all I've got.

8 MR. STILLMAN: No questions.

9 (Signature waived.)

10 \* \* \* \*

11 [Reporter's Certificate omitted in duplicating]

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Civil Action No. 70-C-70

AVIS RENT A CAR SYSTEM, INC., )

[Filed April 9, 1973]

Plaintiff, )

-vs- )

UNITED STATES OF AMERICA, )

Defendant. )

300 Ainsley Building,  
14 N. E. 1st Avenue,  
Miami, Florida.

March 8, 1973.

APPEARANCES:

STUART B. STILLMAN, ESQUIRE,  
Attorney for Plaintiff,  
900 Old Country Road,  
Garden City, N. Y. 11530

ROBERT J. HIPPLE, ESQUIRE,  
Attorney for Defendant,  
Department of Justice,  
Washington, D. C. 20530

-----

DEPOSITION

of

TROY BATTON

Deposition of TROY BATTON, witness of lawful age, taken on behalf of the Defendant in the above-entitled cause, wherein AVIS RENT A CAR SYSTEM, INC., is Plaintiff, and the UNITED STATES OF AMERICA is Defendant, pending in the United States District Court, Eastern District of New York, Civil Action No. 70-C-70, before Lee Madden, Certified Shorthand Reporter and Notary Public, duly qualified and commissioned in and for the State of Florida at Large, at 300 Ainsley Building, 14 N. E. 1st Avenue, Miami, Florida, on the 8th day of March, 1973.

Thereupon,

TROY BATTON

Witness, after first being duly sworn, was examined, and testified on his oath as follows:

BY MR. HIPPLE:

Q Would you state your full name and address, please?

A Troy Lee Batton, 1923 Northwest 58th Street, Miami, Florida.

Q Are you currently employed?

A Yes.



Q By what company?

A Avis Rent A Car System.

Q In what capacity?

A As a service agent.

Q How long have you been employed by Avis?

A Almost fourteen years.

Q Has the entire fourteen years been spent in the Miami area?

A Yes.

Q What positions have you held with Avis?

A Well, mostly as a service agent or combination man, that is servicing of automobiles.

Q The fourteen years you spent with Avis, did you become familiar with the car shuttling or car moving operation?

A Yes.

Q Would you describe how it operates in the Miami area?

A Well, basically we take cars to and from out of town stations of Avis, and to the various dealers around Avis, and we pick cars up, you know, from the various places, such as the city pound, et cetera.



Q How are the cars picked up and moved?

A We locate the car, and then there is a non-revenue ticket made up on the car by all employees, and what we do is write these cars up, and they put them in a machine, and we bring them back to the regional office.

Q You do this on the clock as part of your regular job?

A Yes, on the clock.

Q This was true of the entire period?

A Yes.

Q We are talking specifically about 1962 to 1966 to today.

Do you know of any occasion during that period of time when a person picked up a car or moved a car for Avis who was working not on the clock?

A Not on the clock?

Q Yes?

A Let's see, '62 to '66. There have been times when we were shuttling cars I would say without being on the clock.

Q Were you paid any extra for doing that,

for shuttling cars under that circumstance?

A I believe we were.

Q Do you know of any individual who shuttled cars off the clock like that who was not a regular employee of Avis such as yourself, casual labor?

A I can't think of any. I believe all of the people were employed.

Q And they did this occasionally off the clock then?

A Some times.

Q Can you recall, again '62 to '66, approximately how often this was done off the clock?

A Not very much. Most of the time in the afternoon period, but I won't say it was a practice, you know, that was done every day, but sometimes it would be done after working hours.

Q Was this mostly within the Miami area and outlying stations?

A Within the Miami area.

Q Did you ever go long distances, Northern Florida, or out of the State?

A Sometimes West Palm Beach, but no further

than West Palm Beach.

Q How did you find out about the shuttling off the clock when there was a car to be picked up some place? Did someone in Avis tell you there was a car to be picked up in West Palm Beach?

A Well, they would have, you know, an X amount of cars that would have to be brought back, and they would make a shuttle, a crew of guys who wanted to go off the clock. Sometimes guys had things to do and they couldn't make it, but you would be told in advance if there were cars to bring back.

Q You were not required to do this as part of your regular job as service agent, this was something extra if you wanted to do it?

A Yes, if you wanted to.

Q But if you wanted to go home and not do it, you could go home?

A Yes.

Q When you picked up a car and shuttled a car like this off the clock, did you use any kind of documents or forms to pick it up?

A You would have to make up a non-revenue

ticket. It shows where a car is being transported from, and if you were stopped by an officer of the law, you would have to have something to show that you were working for Avis and bringing this car in.

Q Did you ever pick up a car or move a car off the clock using a vehicle transfer contract?

A A vehicle transfer . . . .

Q First of all, do you know what a vehicle transfer contract is?

A I don't believe so. I believe they were all non-revenue tickets.

Q Do you know anyone else who moved a car under a vehicle transfer contract, either regular employees or casual labor?

A This guy was getting a car and he was driving it to another city, maybe he would use that type of contract.

Q When you first started working for Avis, did you fill out an application form?

A Yes.

Q Did you give them your Social Security number?

A Yes.

Q Did they check your driver's license?

A Yes, they did.

Q Did you have to get a special driver's license or chauffeur's license?

A No, I just used an operators.

Q Is your license checked periodically by Avis?

A I believe it is. I believe it was checked last year by one of the car distribution managers. In fact, before we received our pay checks there was an order out to check licenses, so you had to show them to get your pay.

Q Were there driving records as far as speeding tickets or accidents?

A I don't know.

Q Was there any place you had to fill out indicating your driving record?

A Yes, what kind of record you had as far as driving.

Q When you picked up a car, shuttled a car off the clock, were you paid for doing that?

A Yes.

Q Do you recall how you were paid? Was it the end of each time you moved a car like that, in cash or by check?

A If it was moved off the clock, that would be in petty cash, you know, depending on the distance we went and the price that we said we were going to shuttle the car for.

Q Was it a set figure, so many dollars, \$2.00, \$3.00?

A A set figure.

Q Did you ever do it on a mileage basis?

A No, never on a mileage basis.

Q If there were expenses involved, tolls or gas or anything, did you have to pay those?

A We were reimbursed by the company.

Q So you are paid out of petty cash. Was that the end of each period when you did this off the clock, or every time you came in with a car, did they pay you for that one car?

A Say if you were going to make five trips, you weren't paid until the five trips were completed and



you turned your slips in, but not every time you brought a slip in?

Did this amount ever get included in your regular pay check, the amount you made for driving these cars off the clock?

A I don't believe so.

Q Did anybody ever give you any instructions or advice or information on what to do or where to go when shuttling a car off the clock?

A You mean to take the car?

Q Besides where to take the car? Were you told anything else besides the car is over there, and it has to go some other place?

A No.

Q Did you have to keep track of the mileage on the car?

A Yes, we always write the mileage down on the non-revenue ticket, and when we picked the car up and when it reached its destination, and we marked the mileage down.

Q Could you use the car for any personal purposes on the way?



A No.

Q Did anybody tell you that?

A No one told us that you were not supposed to.

Q You knew this from working full-time for Avis?

A Right.

Q Do you know if you are covered by automobile liability insurance while you are driving the cars off the clock?

A Yes, they told us we were covered.

Q You, personally, if you had an accident and got injured yourself, or was it just the car that was covered?

A In that area -- I know the car is covered, as far as the car belonging to Avis, but if I sustained personal injuries, I don't know, maybe the insurance would . . . .

Q How about working full-time in your regular job? Are you covered for injuries while you are driving a car?

A I would hope so.

Q You will run back down and look into it?

Was anything ever said about the insurance coverage while driving the cars off the clock?

A It came up a few times. We were wondering if we did shuttle cars off the clock if we would be covered if something happened, and I believe the management assured us we were, because some of the guys wondered if something happened would we have coverage.

Q All of these guys were full-time, regular employees?

A Yes.

Q Do you know if Social Security or withholding taxes were deducted from the amount you were paid for shuttling?

A I don't really know.

Q Was anything ever said to you about payroll deductions from these amounts?

A No.

Q Did you ask anybody about it or did any of the other shuttlers?

A No, I never asked about it.

Q Can you recall the names of anyone else

who was shuttling such as this during that period of time, '62 to '66?

A You mean other than Avis employees?

Q No, other Avis employees?

A I would say all the old employees. Perhaps the ones still working were shuttling during that period of time.

Q Do you remember any specific names of individuals?

A Let's see, Robert F-l-u-k-e-r . . . .

Q Let me show you a list of names of people in the Miami area. These names were taken from petty cash slips in a warehouse of Avis in New York, and they are payments for shuttling. Do you recognize any of those names?

A Let's see, Bobby D-u-n-n-o-m.

Q He was one of the regular Avis employees doing this off the clock?

A Yes.

Rufus Richardson, he is no longer with Avis.

Let's see, Al M-o-r-t-i-m-e-r, I don't

think he is with Avis.

Q Was he at the time?

A He was at the time.

John Palmer. Is that Kurt B-l-a-k-e?  
Is that supposed to be Blake?

Q I think so, yes.

A I think he was with Avis then.

LeRoy Thompson, he is still with Avis.

Q (By Mr. Stillman) Mr. Batton, he is not asking you if you know people, he is asking you if people are on there that shuttled off the clock.

A So I don't have to give names, individually?

Q (By Mr. Hipple) I am asking if people are on that list that shuttled the same time as you did off the clock.

A Yes.

Q (By Mr. Stillman) He wants to know if you know the persons whose names are on the list shuttled off the clock, not if you know the people. He is not asking you if you know them. All those people on the list worked or did some work for Avis. That is why they are on the list.

A Okay.

Q (By Mr. Hipple) Did all those people you mention shuttle off the clock?

A Those I mentioned. All these people, I don't know.

Q How about the ones you mentioned? Did they?

A Yes, they did, they worked along with me. Some names are not familiar.

Q Just the ones that you know that did shuttle, okay? You also mentioned Robert F-l-u-k-e-r?

A Yes.

Q During the same period of time, '62 to '66 did Avis use trucks to pick up cars and transport them, motor carriers?

A Trucks we used. I don't remember what year we got them in, but I remember we did have one truck and then we had another one.

Q When you picked up a car, when you were shuttling off the clock, did you get anything besides the non-revenue ticket and keys? Any other kind of documents, or anything like that?

A No.

Q Were you covered by health insurance and any other fringe benefits maintained by Avis while you were shuttling off the clock?

A I imagine Blue Shield and Blue Cross.

Q Was this coverage ever brought up, whether or not you were covered?

A It was discussed a few times by employees, you know, as to how much coverage we had.

Q Did you ever have to share any part of the fee or compensation you got for shuttling off the clock with anybody else?

A No.

Q Were you ever approached to do that?

A No.

Q Was there one individual among a group who was the foreman or head shuttler, the guy in charge at any one time, say if five or six of you were going to pick up cars?

A Our group leader, Robert Fluker, he is the only one who could possibly be in charge.

Q But he wasn't specifically made in charge

of the group by anyone at Avis?

A If he was designated a group leader, I imagine he would have to be in charge.

Q I am talking about off the clock, not while you were moving cars on the clock.

A Well, I guess when you are off the clock, you are on your own and assume your own responsibility.

Q During that time, '62 to '66, did you have any kind of Avis identification badge or card or anything to identify you?

A I believe we did have the Avis I. D. cards, if I am not mistaken. I don't know about in '62, but along in the years they did give us these I. D. cards.

Q While you were driving the cars on the clock as part of your regular job, were you required to wear any kind of uniform?

A We had the regular uniform we wear.

Q Were you required to wear that on the clock, as part of your regular job?

A On the clock? C

Q Yes? Working shuttling off the clock, were you required to wear your uniform?



A Maybe it wasn't a requirement, but I think some would wear the uniform. If they came to work with it on, most people didn't take time to just change clothes.

Q But nobody told you you had to wear a uniform when doing this off the clock?

A No.

Q When you delivered a car to its destination and turned it in, did you have to sign a receipt for payment, a petty cash slip or anything like that?

A After bringing the car back?

Q Yes, was there anything else you signed?

A Besides the petty cash slip?

Q Did you sign a petty cash slip?

A Yes.

Q Was there anything else besides the petty cash slip?

A No.

Q Do you recall any symbols or numbers or identifying numbers on the petty cash slips themselves we could use to identify it?

A Just the information on the car, perhaps

the number of the license plate.

Q Do you know of any individuals who shuttled cars off the clock like we have been talking about who was not full-time employees? Not his name, but were there such people?

A Not that I can recall.

Q Was this need for shuttling off the clock a regular thing, every day, or just certain days a week that it would be needed?

A Not every day.

Q Were there certain days every week that there were always cars to be moved off the clock, like Friday nights or Sunday nights, or something like that?

A Only when, you know, they needed the cars, but I wouldn't say it was on an every day basis. If there were cars to be moved, then we would move them.

Q No specific day of the week?

A No specific day.

MR. HIPPLE: That is all I have.

MR. STILLMAN: I have no questions.

(Deposition concluded.)

-----  
\* \* \* \* \*  
[Reporter's Certificate omitted in duplicating]

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OHIO

AVIS RENT A CAR SYSTEM,  
INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

X

X

X

X

X

X

CIVIL ACTION

NO. 70-C-70

[Filed April 9, 1973]

Deposition of STANDLEY E. GARTNER, a witness of lawful age, taken on behalf of the defendant under the Federal Rules of Civil Procedure, in the above-entitled cause, wherein Avis Rent A Car System, Inc., is the plaintiff, and United States of America is the defendant, pending in the United States District Court, Eastern District of Ohio, before Barbara Wuellner, Certified Shorthand Reporter, a Notary Public in and for the State of Ohio, at 722 U. S. Post Office and Courthouse, Cincinnati, Ohio, on the 21st day of February, 1973.

- - -

APPEARANCES:

On behalf of the plaintiff:

Robert Layton, Esq.,  
of  
Gilbert, Segall & Young,  
405 Park Avenue,  
New York, New York.

On behalf of the defendant:

Robert J. Hipple,  
Tax Division,  
U. S. Department of Justice,  
Washington, D. C.

- - -

MR. LAYTON: We are waiving signature and filing. We are reserving all objections except as to form until the trial.

- - -

STANDLEY E. GARTNER

a witness called by the defendant under the Federal Rules of Civil Procedure, being first duly sworn in the above cause, testified on his oath as follows:

DIRECT EXAMINATION

BY MR. HIPPLE:

Q Would you state your name and current address, please?

A Full name is Standley, S-t-a-n-d-l-e-y, E. Cartner, 3243 Fieldcrest Drive in Erlanger, Kentucky.

Q Your current occupation?

A Supervisor of Piedmont Airlines.

Q Occupation, 1962-1966 period?

A Ramp agent, sir, or ticket counter agent with Piedmont Airlines.

Q Did you ever act as a car shuttler for Avis?

A Yes, I've shuttled cars for Avis, right.

Q Would you describe what you did as a shuttler?

A I would stop by their counter and ask them if they had any cars in any cities that needed to be picked up, and they would tell me either yes or no, and then if they did have anything available, I would go to these cities and pick them up.

Q I take it the counter you're talking about would be the rental counter at the airport?

A Yeah, rental counter at the airport, right, sir.

Q Can you estimate how often you did that in this period of time of '62 to '66?

A I really couldn't say how many times I did it, because it wasn't an everyday thing, you know.

Q Couple times a month or --

A Yeah, maybe a couple times a month. Some months not at all, maybe; some months about three or four times.

Q Could you recall in what areas you did it?

A Mostly in West Virginia and Virginia, Kentucky, Lexington over there, Westmont, Columbus.

Q Did you ever go any long distances?

A Oh, I remember going to Washington, I believe, Washington, D. C.

Q How did you first find out about the shuttling?

A Through their employees that work there at the airport. They -- everybody would stop by the counter and just ask if they had anything, you know, where a guy could, you know, bring it back, make a little extra money.

Q Do you recall how you got your first shuttling contract?

A No. I imagine it would be through the -- either me asking out at the counter, or sometimes the girls at the counter would call over to our operations, or somebody would come by and they'd say, "Hey, if anybody wants to go get a car, we've got one available."

Q Did anybody explain the shuttling procedure to you, what was involved?

A Yeah. When you picked the car -- you know, when you go over and get the information, you go get the car, they would just tell you the car's at such and such an airport, whenever you can get down there and get it, you know, pick it up and bring it back up, and they tell you if -- like if it



was going to be late at night so the office wasn't open all night at the city you were going to, they'd tell you where you could find the keys, if you got in there after the office wasn't open.

Q Did you have to fill out any kind of forms including personal information of any kind before you did any shuttling?

A No, sir, I don't remember filling any form. They give you what they called a deadhead form, you know, a form you sign saying you're going to pick the car up.

Q Do you know if Avis kept any list of people who did shuttling?

A Not that I know of, no.

Q Would you take a look at this, previously marked as Defendant's Exhibit A, and see if you can tell me what that is?

A Well, I don't remember seeing one of these before.

Q Do you recall what kind of form it was that Avis used when you moved a car?

A No. That's what I was trying to remember. Seemed like it was just a -- a white -- kind of a white form, if I remember right, just -- you know, you just signed or they give it to you saying this is -- I wouldn't even say you even



signed it every time. They just give it to you to identify yourself on the other end, I think, was the main thing for it.

Q Was it a printed form, certain information printed on it, other information had to be added?

A No. It -- I know -- I wouldn't say it was a printed form or I wouldn't say it wasn't, because I don't remember. I -- I remember, if I remember correctly, I signed about one or two of these is all I ever signed. The rest of the time they -- this is probably when I first started, and the rest of the time they knew you. Just, you know, if they had a car available, I'd go get it.

Q Was there any kind of form that you had or were given showing the type of car or the license number or the mileage, anything of that sort?

A Yeah, that's right, yeah. There was a -- I guess that was the deadhead slip, you know.

Q Was it the same form you're talking about?

A Yeah, that was the same one, yeah.

Q It was nothing like this Exhibit A?

A Now, I don't know. It's been seven or eight years since I run a car. I would -- I would say it's probably changed to be like this, yes.

Q Do you recall any other information that was on that form?

A No. In fact, to be truthful with you, I never paid that much attention to the form.

Q I think you may have answered this, but did you sign one of those every time you went, or just the first time, first few times?

A That's what I was trying to remember. I can't remember if I signed one every time I went or not.

Q Do you recall anybody ever explaining to you the purpose of the form, the deadhead form?

A No, can't say I do. I'll tell you why I'm having a little confusion here, because I run cars for National and Hertz, too, and I -- some of them had you sign forms, some of them didn't. That's why I'm having confusion whether I signed this form. I couldn't say whether I signed this form every time or not.

Q Was this all during the same period of time?

A Yeah, it was roughly during the same period of time.

Q Do you recall if you were asked for your Social Security number at the time?

A No, I was never asked for the Social Security number.

Q How about your driver's license?

A I don't remember being asked for driver's

license.

Q Did they ask you about your driving record?

A No.

Q Home address? Phone number?

A Yeah, now, I believe they -- no, they didn't have my home address or phone number, either.

Q How about the office address or phone number?

A Yeah, you know, not me personally. In other words, they just had Piedmont operations PX number there at the airport and the interline number. All they did was call over, ask if anybody was available to shuttle a car.

Q They didn't call you specifically?

A No, unh-unh, no. It was whoever answered the phone.

Q Were you asked about any auto insurance coverage that you had yourself?

A No.

Q Did you have any kind of interview before you started shuttling?

A No, not really. We just knew the people that worked there, you know, or I knew the people that worked there. You met them, and far as an interview itself for a job or anything, no.

Q Now, would you describe in as much detail as

you can remember the general steps that you followed from the time you were first contacted by Avis to move a car to the time you actually got it where it was to be moved?

A Well, I would, like, come down through the airport lobby or either be a telephone call in our operations, and whoever would answer the phone in our operations, they would say, "We've got a car in Huntington," or Roanoke or Charleston or Lexington, wherever the city happened to be, and then they would turn around and they'd say to the other gentlemen working there, "We've got a car here or there, Avis has," and anybody wanted to could go get it. Most of the time the guy that answered the phone is the guy that went and got it, but -- and then we would call them back and say, "I'm available to go get this car," and, you know, they'd say, "Well, when you get ready to go, come over and get the information. We'll give it to you and you can go down and pick it up."

Q Did you pick up these cars on your regular time, or was this on after-hours basis?

A No, this was strictly after-hours basis.

Q All right. After you delivered the car do you recall what you did when you got to your destination? Was there a set procedure you followed, somebody you had to see?

A Yeah. Now, I had a procedure I followed; when

I got to the city where the car was at I would check the car to make sure that it wasn't wrecked or anything else, you know. If there was any dents or anything, I would note this, and I would note the mileage, because the mileage they would give you that was on the car -- I know we had a contract because they would give you the mileage on the car. I would check it against the mileage on the car, because sometimes there was a difference in mileage, and I would bring the car back. I would turn it in at the airport and then they would have me sign a petty cash slip and they'd pay me. I'd reach an agreement with them on mileage pay or either flat rate for bringing the car back. This was before I left, on this agreement.

Q Do you recall how you were paid, in cash or check?

A If I remember right, it was cash all the time with Avis.

Q Was it after each job, or weekly?

A No, after each job.

Q Do you know how the amount was figured each time?

A Usually ended up in a discussion on whether it was going to be mileage or flat rate, and I always tried to work it to my benefit, to my benefit.

Q Do you know if Avis had any kind of a rate book or set fees that they would refer to in fixing this price?

A I don't -- I -- I can't say for sure, because I think they tried to stay competitive with the other rent-a-cars on bringing these cars back and -- 'cause I know sometimes I would get a flat rate, sometimes I would get mileage, but as far as a set way of doing it I can't say that they had one, no.

Q Do you recall if the mileage fee was the same in each place you went? If you picked up a car in Huntington, West Virginia, would it be the same mileage fee somewhere else?

A I think that at one time -- like I said, this has been going back years, I can't remember exactly, but I think one time they paid mileage from, like, Huntington to Charleston and then they went to a flat rate on that, bringing that car back. They did away with the mileage. Sometimes it was mileage, sometimes it was flat rate, like Lexington.

Q Did the amount you were paid, the mileage or the flat rate, include any expenses, such as gas and oil, tolls, things like that?

A Yeah. Now, if you had to pay any tolls or any gas and oil, Avis paid you for it. You give them a receipt and they would pay you for this.



Q Now, if you had to go someplace, like Roanoke or Charleston, how would you get down there to pick up a car?

A Well, they have several different ways. You could, you know, fly down, pay service charge and fly down off duty time, or either catch a bus -- I've caught a bus down. Sometimes if there's three or four cars, you would get a -- what they call, I guess, a deadhead car and they would -- we would get in this and three or four of us drive down, pick up the cars, bring the cars back.

Q Now, when you flew down or you took a bus who paid that expense?

A We paid that out of our pocket.

Q Avis did not reimburse you for that?

A No.

Q Were you given any extra amount for expenses for meals?

A No, because I don't ever remember making a trip for them -- I was never given any meal money, but I might have made a trip where I bought meals, but I was not ever reimbursed any, no.

Q Do you recall if you were given any specific route to follow?

A No, never.

Q Any specific time in which to be back with the



car?

A No.

Q Were you allowed to use the car for personal purposes on the way, picking up somebody or carrying something?

A No. Now, if I remember right, I think Jay Sweet was manager at that time; that was one of the things that he didn't -- didn't want us using the car for any personal use, for hauling anybody around,

Q Do you recall his specifically telling you that before you shuttled each time, or only one time?

A No. I happened to be talking to him one time and he mentioned that he, you know, never wanted a car used for personal use.

Q Do you recall who checked the mileage on the car at either end?

A No, I -- nobody has ever checked the mileage on the car for me when I went to another city to pick it up. When I brought it back here I would mark my mileage. Now, if they checked it -- checked it against their lot boys or the boys, I guess, that bring the cars up and take them off of the lot, I guess they would double check my figures. I don't know. I've never had anybody go out and double check on me, though.

Q Do you recall any instructions or information or advice that was given to you when you began shuttling, or

any time when you were shuttling, by somebody from Avis?

A No, other than being careful; that was about it.

Q No specific instructions on what to do or how to do it, other than directions as to where the car was?

A No, other than just giving me instructions on -- you know, telling me what city the car was in and giving me their hours there to where -- so I would know, if the office was closed, where I could get the key, and other than that, no.

Q Did anybody ever explain to you what would happen if you got a speeding ticket?

A No, but I've known guys that got speeding tickets. You pay it out of your pocket; comes out of your own pocket.

Q You're not reimbursed by Avis for that?

A No.

Q How about a parking ticket?

A Same thing, as far as I know; you pay for it yourself.

Q Was it explained to you what to do if the car ever broke down on the way?

A It never was explained to me, but I just took it for granted you call the nearest Avis office, and I had one break down one day.

Q They didn't tell you to specifically call a

certain number or a certain person after hours --

A No.

Q -- or anything like that? How about if you had an accident on the way, was there any set procedure to follow in that?

A I was never given any instructions. I was -- just, you know, figure you automatically call the office.

Q Do you know if you were covered by auto insurance while you were driving?

A Now, that I couldn't say, no. I wouldn't know whether I was or wasn't.

Q It was never explained to you about insurance coverage?

A No, not really.

Q Do you know whether Social Security or unemployment taxes or withholding taxes were taken out of the amount paid to you?

A If they did, I was never given a slip for it, no.

Q Do you remember anything being said about payroll deductions?

A No, nothing was ever said about that.

Q Do you recall if you included the cash payments in your own income each of the years you got it?

A I doubt if I did. I -- I couldn't say for sure, but I'm sure I didn't.

Q Do you know anybody else who shuttled cars during that period?

A Yeah, I know quite a few that's shuttled.

Q Could you give us a few names? Do you know where they are now?

A Yeah. Most of them work for us, you know, the ones that I know.

Q Such as?

A Well, let's see now. I'm guessing, because -- I'm not guessing, but I'm sure that they shuttled cars for Avis, because they've shuttled for most of them out there. Wade Gutman.

Q Wade?

A Yeah, W-a-d-e.

Q What is his last name?

A Gutman, G-u-t-m-a-n.

Merrill, M-e-r-i-l-e, Gadker, G-a-d-k-e-r.

Ray Bowen, R-a-y B-o-w-e-n.

That's during the period I shuttled; that's about it, I imagine.

Q They're all with Piedmont?

A Right.

Q Do you know of anyone who shuttled who was a full-time employee of Avis, somebody at the counter, or who was one of the lot boys?

A No, sir.

Q Had you ever seen any advertisements of any kind for shuttlers in the newspaper, something like that?

A No. To be honest, I never did look at the newspaper to see if they had them advertised in it.

Q Do you recall the last time you did this, shuttling?

A I'm just guessing; I'd say probably seven years ago.

Q Did you get any kind of training at all?

A No.

Q Were any written or oral instructions given to you?

A No, I don't -- no, no instructions, ever.

Q Do you recall what you were given when you first got the car besides the keys and registration, perhaps some kind of contract?

A Well, like I said before, that -- that deadhead slip, I can remember these deadhead slips, but exactly what they were I couldn't say.

Q Was there anything besides that that you recall?

A No.

Q Do you know if you were covered by health or accident insurance maintained by Avis while you were doing this?

A If I was, they didn't tell me, no.

Q How about Workmen's Compensation, any other fringe benefits?

A No, sir.

Q Have you ever filed any claim for any fringe benefits with Avis?

A No, sir.

Q Do you know anybody else that has?

A No, sir.

Q Do you know if anyone who shuttled for Avis frequently during that period of time was given preference?

A No, sir. At the time I dealt with them there wasn't anybody given any preference that I know of.

Q Did you ever have to share any part of your fee or compensation with anybody else?

A No, sir.

Q Were you ever approached to do that?

A No, sir.

Q Do you recall if there was a foreman or head shuttler?

A No, sir.

Q Did you have any kind of identification or card or badge or uniform to identify you as an Avis shuttler?

A No, sir, I didn't have any kind of identification, no.

Q Do you know what kind of records were maintained by Avis to show the dates and the amounts of payments to the shuttlers?

A I would say, I guess, the petty cash slip that we signed and, like I said, sometimes I was given like a dead-head slip. I imagine that's what they used for their records.

Q Would you describe that petty cash slip, the best you can recall?

A I -- I don't even remember what it even looked like now, it's been so long ago. I know it stated you received payment for, you know, shuttling a car.

Q Was it a printed form?

A Yeah, pretty sure it was.

Q Do you recall if it had any kind of identification number or symbol on it?

A No, sir, now, that I couldn't tell you. I -- I don't know if it did or it didn't.

Q Did you sign that every time you got payment for shuttling?

A Yes, sir.



Q Do you know if anybody else signed it for Avis or initialed it, something like that?

A Now, that I couldn't tell you, no.

Q To your knowledge did Avis refuse to allow anybody who shuttled cars in the past to shuttle a car again for Avis?

A No, sir, not that I know of.

Q Was the need for shuttlers a regular thing, or was it in peaks?

A No, it was an on and off thing. I'd call -- it all depends on how busy they were. If they were busy, had a lot of cars going out of town, they would call. Sometimes, might go a month and never hear anything.

Q Do you recall if there were any peak times on weekends or certain seasons they needed more shuttlers?

A I guess, with the airport, about the only time maybe where they would need more shuttlers would be like when the weather was bad, maybe, you know, surrounding airports where the flights couldn't land and people were coming in to Cincinnati and then renting cars to get back, but then they would probably need more shuttlers, but as far as being able to remember, I can't remember any certain period when they would need more, no.

MR. HIPPLE: Off the record.

(Discussion off the record.)

MR. HIPPLE: Back on again.

Q Did the procedure which you described with respect to Avis differ in any way from shuttling cars for Hertz or National?

A No. It was -- it was the same thing. I would just come down through the lobby and I'd stop by Hertz and National and ask them if they'd had any cars in any city that needed to be picked up. If they said yes, then I'd, you know, tell them okay, I'll pick them up for them.

Q Do you recall any specific difference in the procedures that Hertz or National would use as opposed to Avis?

A No, I -- I can't remember, you know, any -- any difference, other than -- I don't know -- well, Hertz paid better, put it that way.

Q Do you recall anyone at either Hertz or National giving you specific instructions in what to do or how to do it besides just where the car was?

A No. They -- there was never any specific instructions, other than where the car was at and -- you know, but they never even -- they just told you to go to their counter. They never gave you a person's name to contact or anything.

Q Were you paid in cash by both Hertz and National?

A Right.

Q Do you know if they withheld payroll taxes?

A If they did, they never told me, no.

MR. HIPPLE: That's all I've got.

CROSS-EXAMINATION

BY MR. LAYTON:

Q Just one or two questions, Mr. Gartner. I think you indicated in answer to Mr. Hipple's questions that sometimes the call would come to the Piedmont desk?

A Right, in their operations, right, sir.

Q Right. Could that call have come from either National or Hertz or Avis?

A Right, sir.

Q It was just a question of who was around at the time answering the phone or who was nearby as to who might be interested in taking the shuttling trip?

A Right. The reason they called over there, we would stop by and ask them if they had any cars to shuttle, and if they said no, not at that time, we would say, "Well, give us a call if you get anything," and that's why they would call over there.

Q When you say "us," what I want to know is: Were there others?

A Other people employed by Piedmont.

Q Other Piedmont employees were shuttling, also, at the same time?

A Right, sir.

Q They were shuttling for both National and Hertz as well as Avis?

A Right, sir, right.

MR. LAYTON: That's all, that's fine. Thanks very much.

MR. HIPPLE: That's it.

(Signature waived.)

\* \* \* \*

[Reporter's Certificate omitted in duplicating]

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action  
No. 70-C-70

[Filed April 9, 1973]

DEPOSITION UPON ORAL EXAMINATION OF DELLA CHRISTENSEN

BE IT REMEMBERED that on Wednesday, February 28, 1973, 9:55 a.m., 1012 United States Courthouse, Seattle, Washington, before Maxine T. Robinson, Notary Public in and for the State of Washington, appeared DELLA CHRISTENSEN, the witness herein.

APPEARANCES

For the plaintiff

STUART B. STILMAN, ESQ.  
900 Old Country Road  
Garden City, New York 11530

For the defendant

ROBERT J. HIPPLE, ESQ.  
Trial Attorney, Tax Division,  
Department of Justice,  
Washington, D.C.

WHEREUPON, the following proceedings were had:

[1]

MAXINE T. ROBINSON  
Court Reporter  
1214 Hoge Bldg.  
Seattle, Washington 98104  
MAin 2-6244

1 DELLA CHRISTENSEN,

being first duly sworn to  
2 tell the truth, the whole  
3 truth and nothing but the  
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q Would you state your full name and current address please?

7 A Della Christensen, 4919 Southwest Canada Drive, Seattle,  
8 Washington.

9 Q Are you currently employed?

10 A Just part time.

11 Q We are talking here specifically about the period from  
12 1962 to 1966. Were you associated in any way with Avis  
13 Rent A Car System during that period?

14 A 1962 -- No.

15 Q Up as far as 1966?

16 A (Pause) No.

17 MR. STILLMAN: Let the record reflect that I  
18 have a continuing objection to questions which are  
19 asked which pertain to the years outside of 1962 to  
20 1966.

21 Q (By Mr. Hipple) Have you ever been associated with Avis  
22 Rent A Car?

23 A Yes.

24 Q In what capacity?

25 A Shuttling cars.

1 Q Do you recall when you first shuttled a car for Avis?

2 A (Pause) It was about four years ago.

3 Q Would you describe what you did as a shuttler for Avis?

4 A Well, I drive, take a car and -- actually I am not an  
5 employee of Avis, because when I signed that vehicle  
6 transfer contract I am working as an independent operator.

7 Q What do you actually do as a shuttler?

8 A Well, like if they want a car at the airport why I may  
9 take it from downtown to the airport or vice versa, or  
10 if they want a car in Olympia or some of their outlying  
11 stations I take one there or go get one.

12 Q Are you still doing that now?

13 A Uh huh.

14 Q Approximately how often did you do this when you first  
15 started?

16 A Maybe once or twice a week.

17 Q Do you recall how you first contacted Avis, first found  
18 out about shuttling?

19 A Well, a neighbor of mine was doing it.

20 Q Do you remember who she was?

21 A Louise Askey.

22 Q Did she contact you?

23 A Yes. She asked me how would I like to help out. So I  
24 got started.

25 Q Were all your contacts through Louise Askey?



- 1 A Yes.
- 2 Q Were you ever contacted by anyone at Avis directly?
- 3 A (Pause) I actually don't recall it.
- 4 Q Did anyone explain the shuttling operation to you when you
- 5 first started? -- what was involved.
- 6 A No.
- 7 Q Do you recall filling out any kind of personnel forms,
- 8 personal information, when you first started?
- 9 A No.
- 10 Q Do you know whether Avis maintained a list of individuals
- 11 who shuttled cars?
- 12 A I don't know a thing about it.
- 13 Q Would you look at this document, which is marked
- 14 Defendant's Exhibit A, and identify that?
- 15 A Yes, but now ours aren't pink; they are white.
- 16 Q Is that a vehicle transfer contract similar to the one that
- 17 you are familiar with?
- 18 A Yes.
- 19 Q Have you ever signed one of those or one similar to that?
- 20 A Yes.
- 21 Q Do you know the purpose of this contract?
- 22 A Well, it shows we moved that car.
- 23 Q Was the effect of that contract ever explained to you
- 24 with respect to your relation with Avis?
- 25 A No.

1 Q Did you ever refuse to sign one?

2 A No.

3 Q Do you recall when you first started shuttling, or any  
4 other time, being asked for your social security number?

5 A They asked us for our driver's license.

6 Q You don't recall about the social security number?

7 A (Pause) No, I don't.

8 Q Do you recall who asked you for your driver's license?

9 A (Pause)

10 Q Not necessarily the name of the individual. His position  
11 or where he was?

12 A (Pause) No, I don't recall exactly who it was but -- I  
13 remember them asking us did we have a valid driver's  
14 license.

15 Q Was that every time you drove?

16 A Oh, no.

17 Q Or just the first time?

18 A (Pause) No, I don't even think it was the first time I  
19 drove.

20 Q They only asked you once for the driver's license, or was  
21 it a periodic check?

22 A Oh, no. I only recall being asked once did I have a  
23 driver's license.

24 Q Were you asked about your driving record, accidents,  
25 speeding tickets, that sort of thing?

- 1 A Yes, I think Steve asked us that.
- 2 Q Steve?
- 3 A Sunberg.
- 4 Q Who was he?
- 5 A Well, at that time he was a car control.
- 6 Q For Avis?
- 7 A Yes.
- 8 Q Do you recall being asked for your home address or  
9 telephone number by anyone from Avis?
- 10 A No, I don't.
- 11 Q Was there any kind of an interview with anyone at Avis  
12 before you started shuttling?
- 13 A No.
- 14 Q To the best of your recollection from when you first  
15 started shuttling would you describe the general steps  
16 that took place from the time you were first contacted  
17 by Avis or Mrs. Askey up to the time you delivered the  
18 car to the destination?
- 19 A Well, now, what do you mean?
- 20 Q Where did you go, who did you see there, at what point  
21 did you sign the contract? -- and just the general steps  
22 that took place.
- 23 A Well, you make out your vehicle transfer --
- 24 Q Did you do that?
- 25 A -- before you leave your -- starting point.

- 1 Q Did you do that yourself or was that filled out?  
2 A Yes.  
3 Q You did that?  
4 A Yes.  
5 Q When you got to the airport, was there a check-in procedure  
6 of any nature out there?  
7 A Give Louise the ticket.  
8 Q There was no one you saw yourself, station manager or  
9 anything?  
10 A No.  
11 Q Do you recall how you were paid, whether it was cash or  
12 check?  
13 A Oh, we could get paid the minute we drove the car.  
14 Q Did you always get paid that way or did you have an option  
15 to get paid weekly or -- any other way?  
16 A We turn in the tickets every day or keep them for a week.  
17 Q Whenever you turned in the tickets you got paid?  
18 A Oh, yes.  
19 Q Do you recall how the amount was fixed?  
20 A Pardon?  
21 Q How the amount was fixed.  
22 A We got paid according to the trips.  
23 Q Was there a set fee depending on which trip it was, or  
24 per mile?  
25 A No, not by mile; just by trip.

- 1 Q Do you recall what any of the fees were?
- 2 A Well, they fluctuate.
- 3 Q Was this a figure that was set by Avis or you were just
- 4 told this is how much it is?
- 5 A Well, I don't recall Avis telling me at any time.
- 6 Q Do you recall anybody telling you?
- 7 A Well, when I started Louise said we get so much for this
- 8 and so much for that and -- you just didn't question
- 9 anybody or ---.
- 10 Q When you picked up a car to be delivered somewhere were
- 11 you given a specific time to be there at the destination?
- 12 A No.
- 13 Q Were you allowed to use the car for personal purposes on
- 14 the way?
- 15 A No.
- 16 Q Did they tell you that specifically?
- 17 A It says so on your contract.
- 18 Q Was the mileage checked on the car on each end, when you
- 19 left and when you arrived at your destination?
- 20 A Well, when you make out your contract you put down the
- 21 starting mileage and put the in-mileage when you get there.
- 22 Q What happened if you should happen to get a speeding
- 23 ticket on the way out to the airport?
- 24 A You pay it.
- 25 Q Did they tell you that?

1 A No, but I just -- gathered that. I don't think anybody  
2 is out to pay somebody else's tickets. I have never  
3 been fortunate enough that way though.

4 Q Were you told what to do if the car broke down or you  
5 had an accident?

6 A Well, I always got all my -- I don't recall any of Avis  
7 telling us but just common sense would tell you to call  
8 Avis if the car broke down.

9 Q The same thing if you had an accident?

10 A Yes.

11 Q No specific instructions were given on what to do though  
12 as far as you remember?

13 A No.

14 Q Do you know whether you were covered by auto insurance  
15 while you were driving?

16 A No, I don't know.

17 Q Did you ever ask anybody at Avis about it?

18 A No.

19 Q Do you know whether social security, unemployment taxes  
20 or withholding taxes were taken out of the amount that  
21 was paid you by Avis?

22 A I don't think so.

23 Q Was anything said to you about payroll deductions at the  
24 time?

25 A No.

- 1 Q Besides Mrs. Askey, do you know of anyone else who was  
2 shuttling cars when you first started?
- 3 A Wasn't very much to do, and now actually all I remember  
4 is Mrs. Askey.
- 5 Q Do you recall anyone who did any shuttling who was a  
6 full-time regular employee of Avis, such as a service  
7 agent or mechanic?
- 8 A Well, the lot boys and stuff shuttled cars occasionally.
- 9 Q Do you know if they were paid on the same basis you were,  
10 so much for a trip out to the airport?
- 11 A No, because they were already working.
- 12 Q Did you ever see any advertisements for shuttlers in the  
13 newspapers?
- 14 A No.
- 15 Q Did you ever do any shuttling for a company besides Avis?
- 16 A I made one trip to Portland for National.
- 17 Q Do you recall if you were given anything else when you got  
18 a car besides the keys and the vehicle transfer contracts?  
19 Any other kind of documents or anything else?
- 20 A No, other than I have picked up a car with a contract in  
21 the glove compartment.
- 22 Q You mean a rental contract?
- 23 A Yes.
- 24 Q Do you know whether you were covered by health insurance  
25 or any other fringe benefits maintained by Avis?



- 1 A No.
- 2 Q You were not covered or you have no knowledge?
- 3 A As far as I know, I'm not.
- 4 Q Have you ever filed a claim for anything?
- 5 A No.
- 6 Q Did you ever have to share any part of your compensation  
7 for shuttling with anybody else?
- 8 A Well, if we -- now, this is just between the shuttlers;  
9 if one has an extra ticket why we divide it up so  
10 everybody comes out even.
- 11 Q I see. If they had one more job than anyone else did?
- 12 A Yes.
- 13 Q Were there any expenses involved in the shuttling? --  
14 gas, oil, tolls, anything like that.
- 15 A Avis pays them.
- 16 Q Did Avis make any provision for getting you back from  
17 the airport if you drove a car out to the airport?
- 18 A Now, would you ask me that again please?
- 19 Q Did Avis make any provision for getting you back from the  
20 airport if, for example, you drove a car out to the  
21 airport?
- 22 A Oh, yes, they will get you back to wherever you started  
23 from.
- 24 Q How did they do that?
- 25 A Give you another car.

- 1 Q Did they ever pay your way back on an airport bus or  
2 anything like that?
- 3 A (Pause) I took a car up to Mount Rainier to a customer  
4 and I came back on the scenic bus.
- 5 Q And they picked that up?
- 6 A Yes.
- 7 Q Did the person who drove the car back to get you back  
8 downtown get paid any more for doing that?
- 9 A No. Was just so much from the airport to town or vice  
10 versa.
- 11 Q Did the person who drove that car get paid -- for driving  
12 everybody back -- the same fee?
- 13 A Sure.
- 14 Q So he got that one or two dollars or two fifty or  
15 whatever the rest of you didn't get?
- 16 A Well, like if a car leaves the -- say, we are all going  
17 downtown by whoever drives the shuttle car -- they go  
18 from the airport to town, back to the airport, and the  
19 rest of them will probably take cars from downtown to the  
20 airport. Well, we all get paid the same.
- 21 Q So the one who drives a shuttle car doesn't get paid for  
22 going out and back?
- 23 A No.
- 24 Q Was there a foreman or head shuttler or anyone else that  
25 controlled shuttling operations?

1 A What?

2 Q A foreman or a head shuttler or anyone like that who  
3 controlled the operations for Avis?

4 A Well, I would say we called Louise the boss.

5 Q Did you have any kind of identification or card or badge  
6 to identify you as an Avis shuttler?

7 A I have got a deal but it don't say anything about Avis  
8 on it.

9 Q Nothing to identify you as being connected with Avis?

10 A No, it's got my picture on it but ---.

11 Q Did you have any kind of a uniform or jacket or anything  
12 like that?

13 A No.

14 Q When you are paid at the end of each job or whenever you  
15 got paid, were you required to sign a receipt of any kind?

16 A No.

17 Q No petty cash slip or anything like that?

18 A Huh?

19 Q Petty cash slip, anything like that, when they paid you?  
20 Or any record that was maintained by Avis to show they  
21 had paid you and how much.

22 A I don't recall.

23 Q Were each of you paid individually or did Mrs. Askey pay  
24 you?

25 A No, each one is paid individually.

1 Q To your knowledge, was any individual who had shuttled  
2 cars for Avis in the past not allowed to do it again for  
3 some reason?

4 A No.

5 Q Was the need for shuttlers back when you first started  
6 a regular thing every day or just certain days that they  
7 needed people?

8 A Well, they called us whenever they needed us.

9 Q There was no set day that they always needed people?

10 A No.

11 MR. HIPPLE: That is all I have.

12 MR. STILLMAN: I have no questions.

13 (Witness excused at 10:15 a.m.)

14 Signature waived.

15 Notice of filing waived.

16 \* \* \* \* \*

17

18 [Reporter's Certificate omitted in duplicating]

19  
20  
21  
22  
23  
24  
25

[14]

MAXINE T. ROBINSON  
Court Reporter  
1214 Hoge Bldg.  
Seattle, Washington 98104  
MAin 2-2714

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action  
No. 70-C-70

[Filed April 9, 1973]

DEPOSITION UPON ORAL EXAMINATION OF MARY LOUISE ASKEY

BE IT REMEMBERED that on Wednesday, February 28, 1973, 9:15 a.m., 1012 United States Courthouse, Seattle, Washington, before Maxine T. Robinson, Notary Public in and for the State of Washington, appeared MARY LOUISE ASKEY, the witness herein.

APPEARANCES

For the plaintiff

STUART B. STILLMAN, ESQ.  
900 Old Country Road,  
Garden City, New York 11530

For the defendant

ROBERT J. HIPPLE, ESQ.  
Trial Attorney, Tax Division,  
Department of Justice,  
Washington, D.C.

WHEREUPON, the following proceedings were had:

[1]

MAXINE T. ROBINSON  
Court Reporter  
1214 Hoge Blvd.  
Seattle, Washington 98104  
MAin 2-6244

1 MARY LOUISE ASKEY,

being first duly sworn to  
tell the truth, the whole  
truth and nothing but the  
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q State your name and present address.

7 A Mary Louise Askey, 5014 Southwest Dawson.

8 Q Are you currently employed?

9 A I am not employed, no, sir.

10 Q Have you ever been associated with Avis Rent A Car System  
11 in any way?

12 A Yes.

13 Q Can you describe how?

14 A I shuttle cars for them.

15 Q Do you remember when that was?

16 A I have done it since 1966. I still do it.

17 Q We are interested primarily in a period around 1966, from  
18 the start of it. As best you can make your answers  
19 applicable to that period.

20 MR. STILLMAN: Let the record reflect that I  
21 have a continuing objection to questions which are  
22 asked which pertain to the years outside of 1962  
23 to 1966.

24 Q (By Mr. Hipple) Would you describe what you did as a  
25 shuttler for Avis?

1 A I just -- they would call me and I would go down to either  
2 the airport or downtown and take cars, transport the cars,  
3 from -- if they called me to come downtown, I take them  
4 out to the airport; or if they called me to go to the  
5 airport we would take them downtown.

6 Q How often did you do that?

7 A Around that area I was doing it on Sunday nights for a  
8 while and then after -- oh, I don't know whether it's a  
9 month or a year, I started doing it on Sunday nights.

10 Q Were you employed anywhere else at that time?

11 A No, sir.

12 Q Did you only do it in the Seattle area from downtown out  
13 to the airport?

14 A At that time I did.

15 Q Do you recall how you first found out about shuttling?

16 A Yes. My nephew was a counter agent in the downtown office.

17 Q Of Avis?

18 A Of Avis.

19 Q He told you about it?

20 A Yes.

21 Q You mentioned before that somebody would call you. Do you  
22 remember who it was that would call you?

23 A It was the downtown manager. When I started.

24 Q Do you happen to remember his name?

25 A Dick Kunz.



- 1 Q Was he always the one who called you, the downtown  
2 manager?
- 3 A Not always. Sometimes one of the counter men would call  
4 me.
- 5 Q Did anybody at the airport ever call?
- 6 A At that time, no.
- 7 Q Do you recall if you had to fill out any forms before you  
8 started shuttling? Any kind of personal information?
- 9 A Nothing personal. We filled out a contract for each car  
10 we shuttled.
- 11 Q Do you remember whether there was any personal information  
12 that you supplied?
- 13 A Nothing.
- 14 Q Do you know whether Avis maintained a list of people who  
15 did shuttling?
- 16 A No, I'm sure they didn't.
- 17 Q You say they didn't maintain a list of shuttlers?
- 18 A Not at that time.
- 19 Q But he had your phone number?
- 20 A Yes.
- 21 Q Do you know if he had any phone numbers of anyone else  
22 that had shuttled in the past?
- 23 A He may have had other phone numbers. He usually called me.
- 24 Q Did you call other people?
- 25 A Then I called the other ones.

1 Q Did you have a list of people?

2 A Well, they were just friends, just friends in the  
3 neighborhood who wanted to do that.

4 Q Do you recall about how many people there were, how many  
5 friends you had, to do this?

6 A There was about four of us at that time.

7 Q You mentioned a few minutes ago a shuttle contract. Let  
8 me show you this. We marked it before; it is  
9 Defendant's Exhibit A, it has been identified as that.

10 A (Examining document) It has been such a long time since  
11 I saw that type of one. Yes, that's approximately what  
12 it was.

13 Q That is a shuttle contract something like the one you used  
14 in 1966?

15 A Yes.

16 Q Was the purpose of that ever explained to you?

17 A No.

18 Q Do you know what the purpose was?

19 A To pay us. And for the fact that we were responsible for  
20 ourselves and for -- they didn't have any insurance or  
21 anything for us to drive.

22 Q Did you ever refuse to sign one of the contracts?

23 A No.

24 Q Do you recall when you started shuttling, first started  
25 or any other time, being asked for your social security

- 1 A Never.
- 2 Q Your driver's license?
- 3 A Yes.
- 4 Q Do you recall who asked you for that?
- 5 A In Portland.
- 6 Q Anyone in Seattle?
- 7 A No. Oh, yes, they did. Not right at that time but later  
8 they had us make out a driving record to prove that we  
9 had a driving record, and so I mean -- we made out a form.
- 10 Q Traffic tickets, accidents, that sort of thing?
- 11 A Yes.
- 12 Q Do you recall when it was you filled out that record  
13 approximately?
- 14 A That was probably in 1970.
- 15 Q Do you recall giving anyone your home address and phone  
16 number?
- 17 A Dick Kunz.
- 18 Q Was there any kind of an interview before you started  
19 shuttling?
- 20 A No, nothing.
- 21 Q To the best of your recollection now of the way things  
22 were run in 1966 would you describe the general steps  
23 that took place when you shuttled a car from the time you  
24 were contacted by Avis up to the time you delivered the  
25 car to the destination?

1 A They called us and then I called, if they wanted five  
2 cars moved or fifteen, I called as many people as it  
3 would take to move the cars and then we would go downtown  
4 and they would give us the vehicle transfer and we would  
5 get in the cars -- sign them, get in the cars, leave a  
6 copy with them and drive up to the airport and pull out  
7 our paid slip and complete the rest of the transfer,  
8 vehicle transfer there.

9 Q You say you pulled out a paid slip?

10 A For us to get paid.

11 Q Was that part of this contract?

12 A Yes. There's one slip in there that was for the shuttlers  
13 and that was how they collected their money.

14 Q How were you paid? Was it cash or check?

15 A At that time you were paid in cash over the counter.

16 Q Was that at the completion of each shuttle?

17 A When we were through. If we shuttled five cars then they  
18 paid us for the five cars in the evening.

19 Q Do you recall the amount that was fixed?

20 A It was two fifty.

21 Q A flat rate for going out?

22 A Yes.

23 Q Were there any expenses involved in it? -- gas or oil or  
24 tolls?

25 A Nothing, no.

1 Q Did you ever go any longer distances than from here to  
2 the airport?

3 A I did later.

4 Q Not in 1966?

5 A No.

6 Q How did you get back from the airport after you shuttled  
7 the car out there?

8 A We would bring an out-of-service car into town or if there  
9 wasn't anything to come back in they would give us -- when  
10 we started out one driver would just bring the rest back  
11 and leave the car in town.

12 Q Was the person who brought everybody else back paid  
13 any more for doing that?

14 A They were paid nothing. We paid them out of our pockets.

15 Q Were you paid anything more for arranging for all these  
16 other people to come in?

17 A Nothing.

18 Q Do you know whether there was anyone else during that  
19 period of time that they called like you to bring in four,  
20 five, six people?

21 A Besides --?

22 Q Besides you, yes.

23 A I think at that time they were using the auction, the  
24 Seattle auction drivers, but when we started being  
25 faithful and coming when they called us, they quit using

1       them.

2       Q    Were you given a specific time to be at the airport when  
3           you were driving a car?

4       A    No, sir.

5       Q    Within half an hour or something?

6       A    No. No time.

7       Q    Were you allowed to use the car for any personal purposes  
8           on the way?

9       A    No.

10      Q    Did anybody tell you that specifically? -- that you could  
11           not.

12      A    They didn't but I understood that we weren't to.

13      Q    Were you given any kind of instructions, you or anyone  
14           else, in shuttling at the time you left the downtown area?

15      A    Nothing at all. Just to take the car to the airport.

16      Q    Was the mileage on the car checked at each end?

17      A    Yes, it was. They wrote the mileage in on the vehicle  
18           transfer -- at that time. We do it ourselves now. And  
19           then when we got there we wrote the mileage in and then  
20           handed in the white slips.

21      Q    Do you know what happened if you got a speeding ticket  
22           on the way out?

23      A    I would have to pay it.

24      Q    Did they tell you that?

25      A    They didn't tell me that but I knew that.

- 1 Q Was that true of any other kind of ticket?
- 2 A They would take care of -- no ticket.
- 3 Q You were responsible?
- 4 A Unless it was a parking ticket or for some overtime parking
- 5 if someone else had done it on the car. I mean, if there
- 6 were a ticket on the car and you found it in there --
- 7 just gave it to them, if it was an overtime parking
- 8 ticket a customer had received.
- 9 Q What would happen if the car broke down on the way or if
- 10 you had an accident?
- 11 A Then we just waited for the State Patrol to call them to
- 12 tell them that we were on the road, or we tried to stay
- 13 together so that if anything did happen someone could
- 14 stop and pick you up, and we just left the car and would
- 15 tell them.
- 16 Q Did anybody in Avis give you a particular procedure to
- 17 follow in case of an accident or a breakdown?
- 18 A No.
- 19 Q Were you covered by auto insurance while you were driving?
- 20 A No.
- 21 Q Did they explain that to you?
- 22 A Yes.
- 23 Q Were the cars themselves covered by insurance?
- 24 A I don't know.
- 25 Q But they did specifically tell you that you were not



1 covered for personal insurance?

2 A We realized that we weren't covered for anything when we  
3 were driving the car.

4 Q Do you know whether social security, unemployment taxes  
5 or withholding taxes were taken out of the amount that was  
6 paid to you?

7 A They never were.

8 Q Do you remember anybody saying anything about payroll  
9 deductions to you?

10 A No.

11 Q Do you recall anybody else who was shuttling cars during  
12 that period of time, in 1966?

13 A Yes. There was Martha MacIntyre.

14 Q Do you know where she is now?

15 A She is living in Reno, I don't know her address.

16 Q Do you know anyone else?

17 A My husband. And her husband. Usually the four of us.

18 Q Am I correct that you said you were doing this on Sunday  
19 nights?

20 A Yes.

21 Q Did you do it any other nights?

22 A Well, later we began doing it on Friday nights, but no  
23 other nights.

24 Q Do you know anyone who was shuttling for Avis who was a  
25 full-time regular employee for Avis, such as a service

1 agent or mechanic?

2 A No, I don't.

3 Q Did you ever see any ads for shuttlers in local newspapers  
4 or something like that?

5 A We haven't.

6 Q Do you recall if you were given anything when you got the  
7 car besides the vehicle transfer contract and keys?

8 A That's all.

9 Q Were you covered by health insurance or any other kind of  
10 fringe benefits in Avis?

11 A Nothing.

12 Q Did anybody in Avis tell you that you were or were not  
13 covered?

14 A They didn't tell us. I understood we weren't.

15 Q Did you ever have to share any part of your fee or  
16 compensation with anybody else?

17 A Yes, I did. If we had someone who drove a shuttle car to  
18 pick us up and bring us back we, at the end of the  
19 evening, we would add up the amount of money we had all  
20 made, put it together, and then we would share with them  
21 evenly.

22 Q Did you have any kind of identification card or badge or  
23 anything to show that you were a shuttler for Avis?

24 A Not then.

25 Q You do now?

1 A Yes.

2 Q Did you have any kind of jacket or anything else you wore,  
3 a uniform of any kind?

4 A Nothing, no.

5 Q Nothing to indicate other than the contracts that you  
6 were driving for Avis?

7 A We wore anything we wanted to.

8 Q Do you know what records were maintained by Avis to show  
9 the dates and the amounts of payments to you or the  
10 other shuttlers?

11 A No, I don't.

12 Q Did you have to sign a receipt of any kind when they paid  
13 you?

14 A Yes, we did.

15 Q Do you recall what that was?

16 A It was just a little white slip of paper, I don't  
17 remember --. They wrote the amount in for each one of us  
18 and then they wrote each one separately. They wrote how  
19 much they paid me and then I signed it.

20 Q Was it a printed form or just a blank piece of paper?

21 A Was a printed form.

22 Q A petty cash slip of some kind?

23 A I believe so.

24 Q Do you recall any numbers or other identifying marks on it?

25 A Nothing, except the amount of money and my name.

- 1 Q And you signed that when you got paid?
- 2 A Yes.
- 3 Q Do you know if anybody else signed it or initialed it?
- 4 A Yes.
- 5 Q Who was that?
- 6 A Martha MacIntyre and her husband, and my husband.
- 7 Q I mean anybody at Avis.
- 8 A Oh, no, I didn't. I don't think -- I think that the
- 9 counter man initialed it.
- 10 Q Was there any specific checking procedure when you arrived
- 11 at your destination?
- 12 A No, we just drove the cars in and got in our car to come
- 13 back and left.
- 14 Q Did you leave a copy of the contract?
- 15 A We left a copy of the contract.
- 16 Q There wasn't a specific person you had to check in with,
- 17 a station manager or anything like that?
- 18 A No.
- 19 Q To your knowledge has any individual who has shuttled cars
- 20 for Avis in the past been refused or not allowed to do it
- 21 again for any reason?
- 22 A No, I have never heard of anything like that.
- 23 Q You indicated that you only did this driving on Sunday
- 24 nights. Was the need for shuttlers a regular thing or
- 25 was it only certain nights they needed them, such as

1 Sunday night?

2 A It was -- they were needed on Sunday nights to get the  
3 cars to the airport for the businessmen in the morning,  
4 on Monday morning.

5 Q Were you ever asked during 1966 to do it any other night?

6 A No. Possibly once in a while on Friday but I can't recall.

7 Q Do you know if anyone else did it any other time during  
8 the week?

9 A Never, no, they didn't. They did it just if I called  
10 them, or if I wasn't home they had called maybe them to  
11 do it.

12 Q But you don't know yourself whether Avis was shuttling  
13 cars at all during the week?

14 A I don't know. I'm sure they did.

15 Q You wouldn't know anyone who was involved in that?

16 A No, I don't.

17 MR. HIPPLE: That's all I have.

18 MR. STILLMAN: No questions.

19 (Witness excused at 9:50 a.m.)

20 Signature waived.

21 Notice of filing waived.

22 \* \* \* \*

23 [Reporter's Certificate omitted in duplicating]  
24  
25

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action  
No. 70-C-70

[Filed April 9, 1973]

DEPOSITION UPON ORAL EXAMINATION OF IRMA O'BRIEN

BE IT REMEMBERED that on Wednesday, February 28, 1973, 10:30 a.m., 1012 United States Courthouse, Seattle, Washington, before Maxine T. Robinson, Notary Public in and for the State of Washington, appeared IRMA O'BRIEN, the witness herein.

APPEARANCES

For the plaintiff

STUART B. STILLMAN, ESQ.  
900 Old Country Road  
Garden City, New York 11530

For the defendant

ROBERT J. HIPPLE, ESQ.  
Trial Attorney, Tax Division,  
Department of Justice,  
Washington, D.C.

WHEREUPON, the following proceedings were had:

MAXINE T. ROBINSON  
Notary Public  
1214 West Pike  
Seattle, Washington 98101  
MAM 2-224

1 IRMA O'BRIEN,

being first duly sworn to  
tell the truth, the whole  
truth and nothing but the  
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q State your name and current address please.

7 A Irma O'Brien, 16062 Southeast 336th in Auburn.

8 Q Are you currently employed?

9 A No.

10 Q Were you ever associated in any capacity with Avis Rent  
11 A Car System?

12 A Yes.

13 Q In what capacity?

14 A I drove cars for them.

15 Q Do you recall about when that was when you first started?

16 A I would say 1970 through February or March of last year.  
17 I haven't driven for about a year.

18 Q You started in 1970?

19 A I think it was 1970.

20 Q Would you describe what you did driving a car for Avis?

21 A We picked them up either at the airport or the garage  
22 downtown and took them to the agencies where they wanted  
23 them delivered, or picked them up at the agency or  
24 brought them into the garages.

25 MR. STILLMAN: Let the record show my



1 continuing objection to questions which are asked  
2 which pertain to the years outside of 1962 to 1966.

3 Q (By Mr. Hipple) Do you recall how you first found out  
4 about shuttling?

5 A Yes. Mrs. Askey is my sister-in-law and she asked me  
6 if I would do it.

7 Q Did all your shuttling contracts come through Mrs. Askey?

8 A Yes, she was there; she was the one who called me and  
9 in her absence Mrs. Christensen did several times.

10 Q Were you ever called by anyone at Avis itself?

11 A I think one time.

12 Q Do you recall who it was that called you?

13 A Terry O'Brien called me and he needed a car in Bremerton  
14 right away -- couldn't reach anyone else. I drove a car  
15 over and flew back.

16 Q Where did you say you drove to?

17 A Bremerton.

18 Q Do you recall if anyone explained the shuttling procedure  
19 to you when you first started?

20 A I don't think they did when we first started. I started  
21 as a very extra person. She might call me in the middle  
22 of the afternoon when she would want an extra shuttler  
23 and I could go home after one trip.

24 Q Do you recall having to fill out any forms containing  
25 any personal information to shuttle?

1 A Only when they made out the little identification card  
2 for us.

3 Q Do you know whether Avis maintained a list of shuttlers'  
4 names, addresses and phone numbers?

5 A I think Mr. Hilton had a list at one time.

6 Q Do you know what his position was?

7 A Not at the time. He has had numerous jobs there.

8 Q He was with Avis?

9 A Yes.

10 Q Was there any kind of a contract or a document given to  
11 you when you picked up a car to be shuttled?

12 A We filled out a form for each car that we picked up.

13 Q Was there a name on that, do you recall? Was it a  
14 vehicle transfer contract?

15 A Yes.

16 Q I show you what has been marked as Defendant's Exhibit A.  
17 Can you identify that?

18 A It isn't exactly what we used.

19 Q Something like that?

20 A (Pause)

21 Q Containing essentially the same information?

22 A The information was the same, yes.

23 Q Did you sign one of those every time?

24 A Each time we picked up a car we signed one.

25 Q Who fills that out?

- 1 A We normally filled it out.
- 2 Q Was it not filled out by somebody at Avis already when
- 3 you got the car?
- 4 A No. Once in a while at the agencies they would fill it
- 5 out for us and we signed it, but Avis didn't do it.
- 6 Q Was the purpose of that transfer contract ever explained
- 7 to you?
- 8 A Well, only that we were responsible for the car when we
- 9 picked it up.
- 10 Q Did you ever refuse to sign a transfer contract?
- 11 A No.
- 12 Q Do you recall when you first started, or at any time,
- 13 being asked for your social security number?
- 14 A (Pause) I don't know whether it was asked for when we got
- 15 our identification cards or not. That would have been
- 16 the only time.
- 17 Q How about your driver's license?
- 18 A That, at the same time.
- 19 Q Was it only checked just the one time or was it checked
- 20 thereafter?
- 21 A I don't think anyone ever checked it.
- 22 Q How about your driving record? -- accidents, speed tickets.
- 23 A They asked us that when we got our ID. That was the only
- 24 time they ever requested any information.
- 25 Q Was there a form you filled out or was it all oral?

1 A When I applied for the identification card?

2 Q Yes.

3 A Yes, I think we filled out something.

4 Q Do you recall if that included your home address,  
5 telephone number, things like that? Just to the best  
6 of your recollection.

7 A I have a card. Can I look at it?

8 Q Surely.

9 (Witness examines document)

10 A (Continuing) It has my social security on it. It  
11 doesn't have my address. My driver's license.

12 (Witness hands document to  
13 Mr. Stillman)

14 Q Do you recall approximately when it was you got the  
15 identification card?

16 A I think the address might be on it. I mean the -- I'm  
17 sorry, the date might be on it. Avis isn't on it.  
18 Nothing on it that says Avis.

19 (Mr. Stillman hands document  
20 to Mr. Hipple)

21 Q You say Avis gave you the card?

22 A Yes.

23 MR. HIPPLE: (Returning card to witness)

24 Thank you.

25 Q Would you describe as best you can recall the general

1 steps that took place from the time you were contacted  
2 by somebody to shuttle a car until the time you actually  
3 delivered it -- where you went, at what point you filled  
4 out the contract, where you got the contract, any checking  
5 procedures.

6 A We went wherever they requested us to. We might leave  
7 home to go to the airport and we might go downtown. We  
8 normally met at one or the other place because an extra  
9 girl went along to drive us to pick up the cars they  
10 wanted back. If it were an agency who asked for a certain  
11 number of cars, they would give us that number and we  
12 filled out the contract, left the cars, to go back to  
13 Avis.

14 Q Who gave you the vehicle transfer contract form?

15 A If we were picking them up at the downtown garage they  
16 normally had them for us. Any place else we had to  
17 carry them. I think in the end we took them downtown  
18 too. In the beginning they had them at the downtown  
19 garage for us.

20 Q Was there any kind of a check-in procedure when you  
21 arrived at the destination, any certain place you had to  
22 go each time, a certain person you had to see, anything  
23 like that?

24 A No, if we delivered to an agency we simply took the keys  
25 in and told them that we had brought them a certain

1 number of cars. If we took them to the garage we simply  
2 parked them and took our next trip. We kept all of our  
3 copies of the contracts until the end of the day and  
4 returned them all at once.

5 Q Did you leave a copy or the original of the contract with  
6 the car?

7 A Not with the car.

8 Q Where did you turn in the original?

9 A Wherever we had started -- at the airport or the downtown  
10 garage.

11 Q Do you recall how you were paid -- cash or check or --?

12 A Paid by check.

13 Q Was that after each day?

14 A No, once a month.

15 Q Did you pick up the check or was it mailed to you?

16 A Normally we picked it up.

17 Q Was there any kind of identification or anything on the  
18 check, account number or --?

19 A I don't think so. Just a check.

20 Q Do you know whether or not it was a payroll check? Was  
21 there anything on it that said "Payroll" or that it was  
22 for car shuttling?

23 A I don't think it had either on it.

24 Q Was it just a check or was there some form to show the  
25 computation of how much you got? -- a stub or something

- 1       like that?
- 2   A   There was no stub; there was something in a little box  
3       that I never understood what it was. It divided it  
4       usually into two portions but I don't know what it was  
5       for.
- 6   Q   Do you recall how the amount was fixed for each run to  
7       the airport or some place else?
- 8   A   Well, there was a set fee for each run that we made.
- 9   Q   Was that set by Avis?
- 10   A   Yes. They changed it on us periodically.
- 11   Q   Was it a flat rate, not a per mile?
- 12   A   No, it was a flat rate.
- 13   Q   Have you ever shuttled cars on a mileage basis?
- 14   A   No.
- 15   Q   At any of the times you have shuttled did you ever have  
16       to spend anything extra for tolls or gas and oil,  
17       anything like that?
- 18   A   Yes. They reimbursed us for it when we turned in a  
19       receipt for that.
- 20   Q   How about transportation if you went some place? Did you  
21       have a way back?
- 22   A   Well, always someone extra drove with us to bring us back  
23       from Bremerton or -- Oak Harbor, some place like that.  
24       Occasionally they would fly us back.
- 25   Q   Somebody actually went along to drive you back?



1 A Normally, yes. It was an extra person to bring us back.

2 Q Was that person compensated by Avis for doing that?

3 A Yes, same rate we were.

4 Q Were you allowed to use the car for personal purposes  
5 on the way?

6 A No. We usually made direct trips.

7 Q Did anybody say that you could or could not use it for  
8 personal purposes?

9 A I don't remember anyone saying it to me.

10 Q Were you given a specific time to be at your destination?

11 A No.

12 Q Did anyone from Avis check the mileage on the car?

13 A Our in and out mileage was written on with the  
14 identification numbers of the car.

15 Q Did you enter that on there?

16 A Yes, we did.

17 Q Do you recall any kind of instructions or advice or  
18 information given to you when you shuttled a car?

19 A No.

20 Q Was it explained to you what would happen if you got a  
21 speeding ticket or any kind of a ticket, traffic ticket,  
22 when you were driving a car?

23 A No. I got a ticket once. They gave me a car with an  
24 expired license on it. Avis paid the fine.

25 Q Do you know what would happen if you got a speeding ticket?

- 1 A You paid it I guess. I don't think Avis would have.  
2 They would not pay a speeding ticket for me.
- 3 Q Did anybody explain to you what to do if the car broke  
4 down or you had an accident on the way?
- 5 A I think Mrs. Askey did.
- 6 Q Nobody from Avis?
- 7 A No.
- 8 Q Do you know whether you were covered by auto insurance  
9 while you were driving these cars?
- 10 A I don't think we were.
- 11 Q Did anybody explain anything about insurance to you?
- 12 A No.
- 13 Q Do you know whether or not social security, unemployment  
14 taxes or withholding taxes were deducted from the amount  
15 paid you by Avis?
- 16 A I don't think they were.
- 17 Q Do you recall anybody saying anything to do you about  
18 payroll deductions?
- 19 A No.
- 20 Q Did you ever ask about it?
- 21 A I asked -- I don't remember what the direct answer was.  
22 It was just between us girls who drove. I questioned it,  
23 why it wasn't withheld, and they said "No, Avis didn't."
- 24 Q You didn't ask anybody at Avis about it?
- 25 A No.

- 1 Q You don't recall what the answer was?
- 2 A I think they just told me they didn't withhold it.
- 3 Q Do you recall anyone else who was doing shuttling at the
- 4 same time besides Mrs. Askey? And you said Della
- 5 Christensen. Do you recall anyone else?
- 6 A Mrs. Shrag, a Mrs. MacIntyre. These people quit about
- 7 the time that I started. And Mrs. Eaton, Laura Eaton.
- 8 Q Do you know where these people are now?
- 9 A In West Seattle. I don't know any of their addresses.
- 10 Q Do you know of anyone doing any shuttling who was a
- 11 full-time regular employee of Avis, a mechanic or a
- 12 service agent, or anything like that?
- 13 A You mean doing full-time shuttling or just --?
- 14 Q No, full-time employee who was doing shuttling.
- 15 A Not while I was working there. I understood that afterward
- 16 that some of the boys, or maybe they had been previous
- 17 employees, were driving, but I have no direct knowledge.
- 18 Q Have you ever seen any advertisements of any kind for
- 19 shuttlers in newspapers?
- 20 A No.
- 21 Q Are you still shuttling now?
- 22 A No.
- 23 Q Do you remember the last time you did it?
- 24 A I think it was February of last year. It could have been
- 25 the early part of March, but I think it was February.

- 1 Q Do you recall if you got anything else when you picked  
2 up a car besides the keys and the vehicle transfer  
3 contract?
- 4 A Nothing else. Unless there had been an overcoat or  
5 something like that left in the car that we were to try  
6 and find the owner. Never anything else.
- 7 Q Were you covered by health insurance or any fringe benefits?
- 8 A No.
- 9 Q Did anybody explain that to you?
- 10 A No.
- 11 Q You just knew that from --
- 12 A I knew that when I got hurt.
- 13 Q Did you ever file a claim for it?
- 14 A No.
- 15 Q Were you hurt actually driving a car?
- 16 A One of the other girls was driving, I was in the back seat,  
17 and she hit a curb and jarred my back. I have a bad  
18 back. It was badly wrenched.
- 19 Q Did you ask anyone at Avis about compensation?
- 20 A No.
- 21 Q Do you recall if anyone who shuttled for Avis frequently  
22 was given preference as a regular over someone who had  
23 not done it for a while?
- 24 A No.
- 25 Q It was on a first-come, first-served basis?

1 A Yes, it was.

2 Q Did you ever have to share any part of your fee or  
3 compensation with anybody else?

4 A Yes. Well, that was just between ourselves, but we did.  
5 If several of us made a trip and the other girls had to  
6 ride along we split our tickets. We came out even at the  
7 end of the day.

8 Q Was there a foreman or a head shuttler, someone like that  
9 at Avis, who controlled the shuttling operations?

10 A Not really control -- Mrs. Askey called us but she didn't  
11 receive anything extra for it.

12 Q Do you know if Avis maintained any kind of records of  
13 the dates or amounts paid to you to shuttle?

14 A Other than their copies of the contracts. I was overpaid  
15 once. I went in and Marion had something, maybe it was  
16 a copy of the contract, but she ran up a new tape and  
17 they issued me a correct check.

18 Q You said "Marion." Who is that?

19 A She is the secretary for Avis.

20 Q Did you have to sign a receipt for payment?

21 A No.

22 Q A petty cash slip, anything like that?

23 A No.

24 Q Do you know of anyone who shuttled cars for Avis in the  
25 past who was refused and not allowed to do it again for

- 1 any reason?
- 2 A I don't know that there was any reason, I know they  
3 stopped calling one of the girls as frequently as the rest  
4 of us, and then sort of eased her out.
- 5 Q You say "they." Do you mean Avis stopped calling or  
6 Mrs. Askey?
- 7 A Mrs. Askey stopped calling. I think it was at Avis'  
8 request.
- 9 Q Do you know any of the circumstances or why?
- 10 A No.
- 11 Q Was the need for shuttlers a regular thing, something  
12 every day, or was it only certain days of the week?
- 13 A Certain days were heavier than others. When I was working  
14 we came in early on Monday, Tuesday and Friday, and  
15 Wednesday and Thursday we didn't come until they called  
16 us. Some days they didn't call at all. So there were  
17 days that were heavier than others.
- 18 Q Do you recall approximately how often you did it? On a  
19 weekly basis or monthly?
- 20 A Well, there toward the end we were working three days a  
21 week every week, and usually a part of the day, on either  
22 Wednesday or Thursday, sometimes both, it was almost a  
23 full-time job.
- 24 Q You were there almost all the time then?
- 25 A Yes.



1 Q When you were doing it on that basis were you going down  
2 in the morning and somebody reporting you were there, or  
3 waiting until you were called?

4 A Well, three days a week we reported in, we knew there was  
5 going to be work, and the other days we waited until they  
6 called us.

7 Q Was there a specific place you went?

8 A To the airport. Parking was better for us there.

9 Q Was there a specific place at the airport?

10 A In the Avis garage area.

11 Q Did they have a lounge or a place to sit?

12 A Nothing.

13 Q You went there and when they needed somebody --?

14 A Yes.

15 Q Was there any kind of a time clock you punched?

16 A No.

17 MR. HIPPLE: That's all I have. Any questions?  
18

19 CROSS-EXAMINATION

20 BY MR. STILLMAN:

21 Q Mrs. O'Brien, this ID card that you were issued by Avis,  
22 to the best of your knowledge what reason is the card  
23 given to you for?

24 A Picking up at other agencies, specifically Portland and  
25 Port Angeles, I think. Only we had problems because it



1 didn't say "Avis" on there.

2 Q What do you mean agencies?

3 A Well, it was the airport at Portland and it was the  
4 airport at Port Angeles too, where there was a regular  
5 car agency for Avis.

6 Q Do you mean that card's function was to identify you to  
7 people outside Seattle who obviously didn't know you,  
8 that you were the person who was authorized to pick up  
9 the car?

10 A Yes.

11 Q Is that because at that time you weren't in possession  
12 of a vehicle transfer contract? You would get the vehicle  
13 transfer contract at the time you got the car, in other  
14 words?

15 A In Portland we did; and Port Angeles I think we took them  
16 with us. We didn't use it often, but it was an Avis  
17 ID card.

18 MR. STILLMAN: I have no other questions.

19 (Witness excused at 11:10 a.m.)

20 Signature waived.

21 Notice of filing waived.

22 \* \* \* \*

23 [Reporter's Certificate omitted in duplicating]  
24  
25

